

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION</p> <p style="text-align: center;">- - -</p> <p>IN RE: NATIONAL : HON. DAN A. PRESCRIPTION OPIATE : POLSTER LITIGATION : : NO. APPLIES TO ALL CASES : 1:17-MD-2804</p> <p style="text-align: center;">- HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER CONFIDENTIALITY REVIEW</p> <p style="text-align: center;">- - -</p> <p style="text-align: center;">JANUARY 15, 2019</p> <p style="text-align: center;">- - -</p> <p>Videotaped deposition of ANDREW BOYER, held at the offices of BRESSLER AMERY &amp; ROSS, 325 Columbia Turnpike, Florham Park, New Jersey, on Tuesday, January 15, 2019, beginning at approximately 9:50 a.m., the proceedings being recorded stenographically by Gail Inghram Verbano, Registered Diplomat Reporter, Certified Realtime Reporter, Certified Shorthand Reporter (No. 8635), and transcribed under her direction.</p> <p>Videotape technician: Eric Davidson</p>	<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 WAGSTAFF &amp; CARTMELL, LLP 3 4740 Grand Avenue, Suite 300 4 Kansas City, Missouri 64112 5 816 701 1100 6 BY: JONATHAN P KIEFFER, ESQ 7 jpkieffer@wcllp.com 8 BY: JACK T HYDE, ESQ 9 jhyde@wcllp.com 10 Counsel for Plaintiff(s) 11 SKIKOS, CRAWFORD, SKIKOS &amp; JOSEPH, LLP 12 One Sansome Street, Suite 2830 13 San Francisco, California 94104 14 415 546 7300 15 BY: MARK G CRAWFORD, ESQ 16 mcrawford@skikos.com 17 Counsel for Plaintiff(s) 18 ROBBINS GELLER RUDMAN &amp; DOWD, LLP 19 Post-Montgomery Center 20 One Montgomery Street, Suite 1800 21 San Francisco, California 94104 22 415 288 4545 23 BY: KELLI BLACK, ESQ 24 kblack@rgrdlaw.com Counsel for Plaintiff(s)</p> <p>ROBBINS GELLER RUDMAN &amp; DOWD, LLP 655 West Broadway Suite 1900 San Diego, California 92101 619 231 1068 BY: THOMAS E EGLER, ESQ teglar@rgrdlaw.com Counsel for Plaintiff(s)</p> <p>COVINGTON &amp; BURLING, LLP One City Center, 850 10th Street NW Washington, D C 20001-4956 202 662 5215 BY: J CHASE JOHNSON, ESQ jcjohnson@cov.com Counsel for Defendant McKesson Corporation</p>
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<p>1 A. Good morning.</p> <p>2 Q. Would you state your full name</p> <p>3 for the record, please.</p> <p>4 A. Andrew Boyer.</p> <p>5 Q. Mr. Boyer, my name is Jon</p> <p>6 Kieffer. I'm a lawyer. We met briefly</p> <p>7 before we started the deposition today.</p> <p>8 Pardon me.</p> <p>9 I represent plaintiffs</p> <p>10 nationwide in the matter of In Re:</p> <p>11 National Prescription Opiate Litigation,</p> <p>12 which is a lawsuit that's filed in the</p> <p>13 Northern District of Ohio against Teva</p> <p>14 Pharmaceuticals and others, and we're here</p> <p>15 today to take your deposition in connection</p> <p>16 with that case.</p> <p>17 Is that your understanding of</p> <p>18 why you're here?</p> <p>19 A. That is my understanding.</p> <p>20 Q. All right. You understand the</p> <p>21 court reporter just swore you in?</p> <p>22 A. Yes.</p> <p>23 Q. You understand that is the</p> <p>24 same oath to tell the truth that you will</p>	<p>1 take if you end up testifying as a witness</p> <p>2 in the trial of this case?</p> <p>3 A. Yes.</p> <p>4 Q. You also understand your</p> <p>5 testimony today is being videotaped?</p> <p>6 A. Yes.</p> <p>7 Q. One of the reasons for that</p> <p>8 is, in the event that case is tried and you</p> <p>9 are not present, we may elect to play part</p> <p>10 or all of your videotaped testimony to the</p> <p>11 jury.</p> <p>12 You understand that as well?</p> <p>13 A. Yes.</p> <p>14 MR. ERCOLE: Object to the</p> <p>15 form. We can debate the</p> <p>16 appropriateness of that at the</p> <p>17 appropriate time.</p> <p>18 BY MR. KIEFFER:</p> <p>19 Q. On that topic, sir, you are</p> <p>20 here today voluntarily; meaning you have</p> <p>21 not been served with a subpoena compelling</p> <p>22 you to attend?</p> <p>23 A. I believe that's the case,</p> <p>24 yes.</p>

1 Q. You're here today because  
2 someone, presumably your employer or  
3 folks/attorneys on its behalf, asked you to  
4 appear and give testimony?

5 MR. ERCOLE: Objection to the  
6 form.

7 THE WITNESS: I'm not sure. I  
8 thought it was subpoenaed, but maybe,  
9 maybe not. I've done so many of these,  
10 I don't know the answer.

11 BY MR. KIEFFER:

12 Q. All right. We'll get to that.

13 Sir, this case, as I  
14 mentioned, is pending in Ohio, actually in  
15 Cleveland, Ohio.

16 If you're asked by your  
17 employer to testify as a witness in the  
18 eventual trial of this case, will you do  
19 your best to accommodate that request?

20 A. Yes.

21 Q. And the only reason I ask  
22 that, sir, is if the case is eventually  
23 tried and the jury has to watch your  
24 videotape instead of having the benefit of

1 hearing from you live, I want them to  
2 understand it's not because you weren't  
3 willing to come. Okay?

4 A. Fair enough.

5 Q. All right. Juries sometimes  
6 don't like videotapes and --

7 A. I've seen them before.

8 Q. -- they take out their  
9 frustration on the person that hits play.

10 Okay. You mentioned that you  
11 have done this, I think you said, many  
12 times before; right?

13 A. That is correct.

14 Q. Okay. How many depositions  
15 have you given?

16 A. Probably four or five dozen.

17 Q. Four or five dozen?

18 A. Yes.

19 Q. Okay. Have you testified in  
20 trial?

21 A. Yes.

22 Q. About how many times?

23 A. Two or three times.

24 Q. Okay. The four or five

1 dozen -- I won't take our time to do the  
2 mathematical calculation, but have those  
3 been largely connected with your  
4 employment?

5 A. Yes.

6 Q. And in connection with your  
7 employer by whom?

8 A. By a lot of different  
9 entities. I believe Watson Pharma, Actavis  
10 Pharma, Teva, Allergan. Those are probably  
11 most of the entities.

12 Q. Okay.

13 A. Could be others, though.

14 Q. I'm sorry?

15 A. Could be others.

16 Q. You've worked for all those  
17 companies?

18 A. Yes.

19 Q. Okay. Well, you obviously  
20 know the drill. You've done this before.  
21 Let me give you just a few minutes of  
22 ground rules, which is probably going to  
23 sound an awful lot like lawyer spiels  
24 you've heard before, but nevertheless, I

1 want it clear on the record, and hopefully  
2 that will help us to communicate going  
3 forward. Okay?

4 A. Sounds good.

5 Q. All right. This is obviously  
6 a verbal format, so it's my job to try to  
7 ask a clear question, that makes sense,  
8 that you can answer. And assuming I do  
9 that, it's your job to give a verbal answer  
10 as opposed to a nod or a shake of the head  
11 or uh-huh or huh-uh.

12 Do you understand that?

13 A. Yes, I do.

14 Q. Okay. If you do that from  
15 time to time -- that is, nod or shake your  
16 head -- I may say, is that a yes, or is  
17 that a no? I'm not trying to be rude or a  
18 tough guy, I'm just trying to make sure we  
19 get a clear record. Okay?

20 A. More than fair.

21 Q. Sometimes my questions can be  
22 a little long, and sometimes, or many  
23 times, you may have an idea of where I'm  
24 going with a question.

1 A. Uh-huh.

2 Q. But even if you do, do your  
3 best to let me finish my question before  
4 you start in with your answer, and I'll do  
5 my best to not interrupt your answer before  
6 I launch into another question. Okay?

7 A. Okay.

8 Q. I don't know how long we'll go  
9 today. It's not my intent to make it a  
10 marathon. We'll kind of see, but we'll  
11 take breaks. If you find you need a break  
12 before we decide to take one, let us know,  
13 and we'll try to accommodate you, so long  
14 as there's not a question or a line of  
15 questions pending. Okay?

16 A. Okay.

17 Q. All right. The depositions  
18 that you've given in the past, speaking  
19 generally, you identified for us the  
20 different companies that you gave those --  
21 whose -- on whose behalf you gave those  
22 depositions.

23 Those are all companies in the  
24 pharmaceutical industry; correct?

1 A. That is correct.

2 Q. All right. Why don't you run  
3 through for us, briefly but completely,  
4 your employment history, post-college.

5 A. Post-college?

6 Q. Yeah.

7 A. Sure. I worked for a company  
8 called Lederle Laboratories starting in  
9 1988, in their IT area. I was there from  
10 '88 until '95 in different capacities. It  
11 was IT, it was physician-based sales, it  
12 was generic forecasting and it was national  
13 account sales.

14 In 2005 -- 2000 -- 2005, I  
15 went to Barr Laboratories for six months as  
16 a marketing manager. I left Barr for three  
17 years, from approximately 2006 [sic] to  
18 2008. I was in a health and beauty aid  
19 store as part-owner. Only health and  
20 beauty aids, so it was outside of pharma.

21 And then, in 1998, I began to  
22 work for a company called Watson Pharma.  
23 And through all the different names -- that  
24 was Watson Pharma, that was Actavis Pharma,

1 that was Allergan, that was Teva until  
2 2016.

3 MR. ERCOLE: Just so the record  
4 is clear, I think there was -- you  
5 referenced 2005 and 2008, rather than  
6 1995 and 1998.

7 THE WITNESS: Sorry about that.  
8 It was 1998 until 2005, I believe.

9 BY MR. KIEFFER:

10 Q. And did you go to work for  
11 Barr in approximately 1995?

12 A. I was only there for six  
13 months. I think it was 2005 for six  
14 months.

15 Q. And how about the period where  
16 you were part-owner of a health and beauty  
17 aid store, what were those years again?

18 A. It was three years. So it  
19 would have been the three years prior to  
20 1998. So it was probably '96, '97 and part  
21 of '98.

22 Q. Okay. But since sometime in  
23 1998, you have worked for the company that  
24 now is known as Teva?

1 MR. ERCOLE: Objection.  
2 Objection to form.

3 THE WITNESS: I worked for  
4 Watson Pharma, Actavis Pharma, and then  
5 Teva bought Actavis Pharma.

6 BY MR. KIEFFER:

7 Q. Who, strictly speaking, is  
8 your employer? Is it Teva Limited? Teva  
9 USA?

10 MR. ERCOLE: Objection to the  
11 form; vague, temporal scope.

12 THE WITNESS: I don't know the  
13 entities. I was there for a short  
14 period of time.

15 BY MR. KIEFFER:

16 Q. You work for Teva today?

17 A. No.

18 Q. What do you do today?

19 A. I work for Amneal  
20 Pharmaceuticals today.

21 Q. Spell that for me.

22 A. A-M-N, as in Nancy, E-A-L.

23 Q. And how long have you worked  
24 for them?



<p style="text-align: right;">Page 21</p> <p>1 A. Since February of last year, 2 so February of 2018. 3 Q. So Teva -- I believe the 4 record reflects that Actavis was acquired 5 by Teva in 2016, perhaps around August of 6 2016. 7 Does that sound correct to 8 you? 9 A. That's correct. 10 MR. ERCOLE: Object -- 11 objection to form. 12 THE WITNESS: Whatever entity I 13 was working for, I became a part of 14 Teva in 2016. 15 BY MR. KIEFFER: 16 Q. Okay. And when you became 17 part of Teva in 2016, you just referred to 18 it as "Teva" right? 19 A. I believe it was Teva USA, but 20 I don't want to guess. But I was part of 21 the US organization. I also had control of 22 Canada, so I don't know the exact entity. 23 Q. Okay. We'll call it Teva for 24 purposes of today's deposition.</p>	<p style="text-align: right;">Page 22</p> <p>1 So you were employed by Teva 2 beginning with the acquisition in roughly 3 August of 2016 until you assumed your 4 current position in approximately February 5 of 2018? 6 MR. ERCOLE: I'm going to 7 object, because I think the witness has 8 specified that it was Teva USA. If we 9 can have an agreement that when you're 10 referring to "Teva," it's Teva USA, 11 then that's fine. 12 BY MR. KIEFFER: 13 Q. That's fine, if that's your 14 understanding of who your employer was. 15 A. Perfectly fine. 16 Q. Okay. All right. So you 17 worked for Teva from that period of time, 18 August of 2016 until about February of 19 2018? 20 A. That is correct. 21 Q. Okay. What was your title at 22 the time you worked for Teva? 23 A. President and CEO of North 24 America.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. And as president and CEO of 2 Teva North America, were you -- did your 3 job entail only the generic side of Teva's 4 bills or branded products as well? 5 A. Generics only. 6 Q. From the period of time 7 beginning with your employment with Watson, 8 starting in 1998, did you work exclusively 9 on the generics side of the business? 10 A. Generics only. 11 Q. Has -- your pharma career, 12 since at least 1998, has been generics 13 only? 14 A. That is correct. 15 MR. KIEFFER: Pull up document 16 1720. 17 - - - 18 (Teva-Boyer No. 001 was marked for 19 identification.) 20 - - - 21 BY MR. KIEFFER: 22 Q. Sir, I've just handed you what 23 we have marked as Exhibit 1. This is a 24 document that was provided to us in this</p>	<p style="text-align: right;">Page 24</p> <p>1 litigation by counsel for Teva, actually 2 from your electronic custodial files. 3 Having done this process 4 before, you're probably familiar with the 5 fact that parties exchange documents in 6 litigation? 7 A. Yes. 8 Q. Okay. This particular one has 9 a number in the lower right-hand corner. 10 For the record, I'm going to have to state 11 them today. I apologize. They're a little 12 cumbersome, but we want our record to be 13 complete. 14 This one is 15 TEVA_MDL_A_09643590, and this a -- appears 16 to be a PowerPoint presentation dated -- 17 "Welcome to Teva Pharmaceutical Industries, 18 Ltd," dated 2017. And, again, for the 19 record, this came from Mr. Boyer's 20 custodial files. 21 As a prefatory question, sir, 22 I'm assuming in the time that you were at 23 Watson and then Actavis and then Teva, from 24 time to time, you would receive PowerPoint</p>

<p style="text-align: right;">Page 25</p> <p>1 presentations in various forms that 2 pertained in some form or fashion to your 3 job. 4 A. Yeah, I'm sure of that. 5 Q. Companies use PowerPoints a 6 lot, and Actavis and Watson and Teva are no 7 different; right? 8 A. I guess. 9 Q. Okay. This particular one -- 10 let me ask you some questions about some of 11 the statements in here and see if you're 12 familiar with them. 13 Teva is -- it's one of the 14 world's largest pharmaceutical companies; 15 correct? 16 A. I don't know how -- 17 MR. ERCOLE: Object to the 18 form. 19 THE WITNESS: I don't know how 20 you're qualifying "largest 21 pharmaceutical companies," but -- I 22 don't know. 23 BY MR. KIEFFER: 24 Q. How about in generics? Is it</p>	<p style="text-align: right;">Page 26</p> <p>1 the world's leading supplier of generic 2 medications? 3 A. It was the largest generic 4 company in the US, that's for sure. 5 Q. How about the world, do you 6 know? 7 A. I believe so, but I don't know 8 the exact -- how you're calculating that. 9 Q. But certainly when you were 10 there, it was the largest generic company 11 in the United States? 12 A. Yes. 13 Q. Okay. Teva is based in 14 Israel; is that correct? 15 MR. ERCOLE: Objection to the 16 form. Again -- 17 MR. KIEFFER: Teva -- well, 18 Teva Limited, the parent company. 19 THE WITNESS: The parent 20 company is located in Israel. 21 BY MR. KIEFFER: 22 Q. Started out in 1901, according 23 to this, Page 4. 24 MR. ERCOLE: Are you referring</p>
<p style="text-align: right;">Page 27</p> <p>1 to Teva Limited or Teva USA? 2 BY MR. KIEFFER: 3 Q. I'm referring to the company 4 that's referenced in this PowerPoint, which 5 is generically Teva. 6 When you worked for the 7 company, sir, did you understand their 8 global headquarters to be located in 9 Israel? 10 A. I didn't pay attention. The 11 US was in the US. That's where it was. 12 There was a corporate headquarters in 13 Israel as well. I don't know that one has 14 a thing to do with the other. 15 Q. Okay. 16 A. My CEO was in the US. 17 Q. Okay. And who was your CEO? 18 A. At the time, it was Siggi 19 Olafsson. 20 Q. And he was based in the US? 21 A. Yes, he was. 22 Q. Where at? 23 A. He was in Parsippany, 24 New Jersey.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. I'm going to refer -- can we 2 go to Page 5 of the PowerPoint? 3 This does not have page 4 numbers on it, so I'm going to ask our tech 5 to get us there. 6 Page 5 is titled, "We came a 7 long way in the last century." The top 8 line on the right states, "The leading 9 global generic company." 10 When you worked for Teva, did 11 you understand that it held itself out as 12 the leading global generic company? 13 A. That's what it says. I don't 14 know what the definition is, but that's 15 what it says. 16 Q. Okay. It indicated here at 17 least that revenues in 2016 were 18 21.9 billion. 19 Was your understanding 20 consistent with that? 21 A. That's what it says. 22 Q. Okay. Next slide, please. 23 According to this document, 24 sir, Teva is headquartered in Israel.</p>

<p style="text-align: right;">Page 29</p> <p>1 Did you have an understanding</p> <p>2 when you worked there as to whether that</p> <p>3 was true or not.</p> <p>4 A. I knew it was an Israeli-based</p> <p>5 company. That's fine.</p> <p>6 Q. Turn to Page 7 of that</p> <p>7 PowerPoint.</p> <p>8 This indicates that Teva, at</p> <p>9 least as of this point in time,</p> <p>10 manufactured 120 billion tablets and</p> <p>11 capsules annually.</p> <p>12 Did you understand that it did</p> <p>13 that kind of production volume?</p> <p>14 A. No.</p> <p>15 Q. Wouldn't surprise you?</p> <p>16 A. No.</p> <p>17 MR. ERCOLE: Object to form.</p> <p>18 THE WITNESS: No, I have no</p> <p>19 reference point.</p> <p>20 BY MR. KIEFFER:</p> <p>21 Q. Next page, please.</p> <p>22 This slide states, "The</p> <p>23 world's largest 'medicine cabinet.'</p> <p>24 Generic specialty and OTC."</p>	<p style="text-align: right;">Page 30</p> <p>1 I've seen that phrase, "the</p> <p>2 world's largest medicine cabinet," in</p> <p>3 various Teva documents. Is that a phrase</p> <p>4 that you saw from time to time when you</p> <p>5 worked for Teva?</p> <p>6 A. I've seen it before.</p> <p>7 Q. This next page of Exhibit 1</p> <p>8 indicates, in the upper right-hand corner,</p> <p>9 that one in six prescriptions in the US is</p> <p>10 filled with a Teva medicine.</p> <p>11 Is that information you were</p> <p>12 familiar with when you worked for Teva?</p> <p>13 A. That's what it says here.</p> <p>14 Q. And as president and CEO of</p> <p>15 Teva North America, I would assume you'd</p> <p>16 have some familiarity with whether a</p> <p>17 statement like that was remotely accurate</p> <p>18 or not?</p> <p>19 MR. ERCOLE: Object to form.</p> <p>20 THE WITNESS: This wasn't</p> <p>21 created by me. This was done by some</p> <p>22 other part of the organization, so I am</p> <p>23 sure they have the backup to support</p> <p>24 it.</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MR. KIEFFER:</p> <p>2 Q. Okay. Page 30, sir, of this</p> <p>3 PowerPoint --</p> <p>4 Actually, go back to the prior</p> <p>5 page -- 29.</p> <p>6 A. What does it say?</p> <p>7 Q. Yeah. It says, "Israel is an</p> <p>8 ecosystem of pharmaceutical solutions."</p> <p>9 MR. ERCOLE: Give the witness a</p> <p>10 second so we can get there.</p> <p>11 MR. KIEFFER: Sure.</p> <p>12 BY MR. KIEFFER:</p> <p>13 Q. Are you there?</p> <p>14 A. Okay.</p> <p>15 Q. Okay. And then flip to the</p> <p>16 next page.</p> <p>17 And then Slide 30 here states,</p> <p>18 "A strong biopharmaceutical cluster." It</p> <p>19 says, "Presence of top global</p> <p>20 pharmaceutical companies," and there's a</p> <p>21 number of them listed there, with Teva</p> <p>22 being on the top row at the left.</p> <p>23 Do you see that?</p> <p>24 A. Yes, I do.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. And it says there, under</p> <p>2 Teva's name, "Global HQ," for</p> <p>3 "headquarters."</p> <p>4 Do you understand?</p> <p>5 A. Yes.</p> <p>6 Q. Does that jog any memory that,</p> <p>7 in the time that you worked for Teva, its</p> <p>8 global headquarters was, in fact, in</p> <p>9 Israel?</p> <p>10 MR. ERCOLE: Objection to form.</p> <p>11 Again, no differentiation between Teva</p> <p>12 USA and Teva Limited, but --</p> <p>13 THE WITNESS: This says "Global</p> <p>14 headquarters R&amp;D and manufacturing</p> <p>15 sites."</p> <p>16 BY MR. KIEFFER:</p> <p>17 Q. Okay.</p> <p>18 A. So -- so whether that's global</p> <p>19 headquarters is a different discussion.</p> <p>20 This is about R&amp;D and manufacturing.</p> <p>21 Q. Okay. Let me follow up on</p> <p>22 that.</p> <p>23 Did you understand, when you</p> <p>24 worked for Teva US, that its global R&amp;D was</p>



1 based in Israel?  
 2 A. I didn't know that.  
 3 Q. Okay. Did Teva USA have R&D  
 4 operations here in the United States?  
 5 A. Yes.  
 6 Q. Specifically where?  
 7 A. You'd have to ask the R&D  
 8 team, but we had, I believe, Salt Lake  
 9 City -- I don't remember all the different  
 10 sites, but there were US sites.  
 11 Q. Okay. Do you know what  
 12 specific --  
 13 A. Elizabeth, New Jersey.  
 14 Q. Do you know what specific  
 15 products were the subject of Teva US R&D?  
 16 A. US, Salt Lake City, was -- was  
 17 patch and gel technologies and products of  
 18 that nature.  
 19 Q. When you say "patch and gel  
 20 technologies," would that also include  
 21 things like fentanyl patch?  
 22 A. I believe they did fentanyl  
 23 patch there.  
 24 Q. You told us earlier, at least

1 in the time that you worked for Teva USA,  
 2 you understood that it was the largest  
 3 generic drugmaker in the US?  
 4 MR. ERCOLE: Objection to form.  
 5 Mischaracterizes.  
 6 THE WITNESS: Depending on how  
 7 you calculate "largest," but I believe  
 8 it had the largest dollars and the  
 9 largest extended units.  
 10 BY MR. KIEFFER:  
 11 Q. Okay. And when you say -- I  
 12 understand what "largest dollars" is, and I  
 13 think our jury will as well.  
 14 When you say "largest extended  
 15 units," describe specifically what you  
 16 mean.  
 17 A. Tablets, capsules, patches, if  
 18 you were to calculate that.  
 19 Q. Okay. Individual units versus  
 20 bottles, packages, those sorts of things?  
 21 A. That is correct.  
 22 Q. Okay. And how about  
 23 prescriptions that were filled with a  
 24 generic medicine? When you worked for Teva

1 USA, did you understand that more  
 2 prescriptions in this country were filled  
 3 with a Teva generic than with any other  
 4 company's generic?  
 5 MR. ERCOLE: Objection to form.  
 6 THE WITNESS: I believe that's  
 7 the case.  
 8 BY MR. KIEFFER:  
 9 Q. Okay. Teva also was the  
 10 largest manufacturer in the US of generic  
 11 opioids?  
 12 A. Of that --  
 13 MR. ERCOLE: Objection to form.  
 14 THE WITNESS: I don't know the  
 15 answer to that.  
 16 BY MR. KIEFFER:  
 17 Q. You don't know one way or the  
 18 other?  
 19 A. No, I don't know, from a  
 20 manufacturing standpoint, who the largest  
 21 was.  
 22 Q. Okay.  
 23 MR. KIEFFER: Pull up document  
 24 00306D.

1 - - -  
 2 (Teva-Boyer No. 002 was marked for  
 3 identification.)  
 4 - - -  
 5 BY MR. KIEFFER:  
 6 Q. Sir, we've just marked as  
 7 Exhibit 2 a document with the number  
 8 TEVA\_MDL\_A\_00455086. It's also been marked  
 9 in previous depositions in this case. This  
 10 was a document provided to us by counsel  
 11 for Teva. It's entitled "Teva Opioid  
 12 Market Share Calculation: All Opioids."  
 13 Do you see that label at the  
 14 top?  
 15 A. Yes.  
 16 Q. This document, at least in the  
 17 top line of the grid, reflects Teva opioid  
 18 script volume for the years 2012 through  
 19 2016.  
 20 Do you see that?  
 21 A. Yes.  
 22 MR. ERCOLE: Objection to form.  
 23 BY MR. KIEFFER:  
 24 Q. I think it may be

<p style="text-align: right;">Page 37</p> <p>1 self-explanatory, but "script" is shorthand 2 for "prescriptions"; correct? 3 MR. ERCOLE: Objection to form; 4 no foundation. 5 BY MR. KIEFFER: 6 Q. Or do you know? 7 A. I don't know anything about 8 this document. Does this include -- this 9 is just Teva? Does this include at 10 Actavis? Does this include Watson? 11 Q. Yeah. 12 A. I don't know what this is. 13 Q. Yeah, it's all set forth in 14 the footnotes. 15 My only question for you is, 16 you understand the reference to script to 17 typically be referring to prescriptions? 18 MR. ERCOLE: Objection to form; 19 foundation. 20 THE WITNESS: Yeah, I know what 21 a script is, yes. 22 BY MR. KIEFFER: 23 Q. Okay. Fair enough. 24 According to this document,</p>	<p style="text-align: right;">Page 38</p> <p>1 which, again, was furnished to us by Teva, 2 Teva script volume about doubled between 3 2015 and 2016, from a little over 4 15 million to almost 31 million 5 prescriptions. 6 Without asking you at the 7 moment to vouch for the accuracy of that 8 data, if we assume it's accurate, do you 9 know why the significant increase? 10 MR. ERCOLE: Objection to the 11 form; calls for speculation. 12 THE WITNESS: I would assume or 13 I would guess that part of the 14 transaction was the purchase of 15 Actavis, or they launched a tremendous 16 amount of new products. I don't know 17 which one it is. 18 BY MR. KIEFFER: 19 Q. Okay. But you had an 20 understanding at least in a general sense, 21 when you were at Teva, that its acquisition 22 of Actavis in 2016 would, by definition, 23 increase the amount of prescriptions that 24 ultimately were filled with a Teva generic</p>
<p style="text-align: right;">Page 39</p> <p>1 product? 2 A. Yes. 3 Q. Simply because they were two, 4 huge, generic players in the US market? 5 MR. ERCOLE: Objection to the 6 form. 7 THE WITNESS: They were both 8 big generic companies in the US. And 9 by default, you would have a certain 10 amount of increase in prescriptions as 11 a combined company. 12 BY MR. KIEFFER: 13 Q. Okay. And at least according 14 to this document, the volume of 15 prescriptions that were filled with a Teva 16 product increased from about 6 percent in 17 2015 to 14 percent in 2016. 18 Is that information that you 19 were familiar with when you worked at Teva? 20 A. No. 21 MR. ERCOLE: Objection to form 22 and foundation. 23 BY MR. KIEFFER: 24 Q. Never looked at it?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. No, not as a whole. 2 Q. When you say "not as a whole," 3 what do you mean? 4 A. We forecasted products on an 5 individual basis, NDC by NDC. There may 6 have been soundbites that corporate was 7 maybe using for that, but that's not 8 something that we were focusing on. 9 Q. Okay. Typically, what was the 10 term you used for tablets, capsules, gels? 11 A. Extended units? 12 Q. Extended units. Thank you. 13 For most of the extended unit 14 products that Teva made, those came in some 15 sort of multidose packaging; right? 16 MR. ERCOLE: Objection -- 17 BY MR. KIEFFER: 18 Q. Bottles, for example? 19 MR. ERCOLE: Objection to form; 20 time period, vague. 21 BY MR. KIEFFER: 22 Q. When you were there. 23 A. When I was at Teva, the 24 packages consisted of blister packs,</p>

<p style="text-align: right;">Page 41</p> <p>1 bottles, sachets, there's liquids. So</p> <p>2 there's a multitude of different</p> <p>3 calculations for extended units or eaches.</p> <p>4 Q. Okay. So bottles, for</p> <p>5 example, of an opioid product, what would</p> <p>6 be the smallest count of pills or caplets</p> <p>7 that you would have seen in your time at</p> <p>8 Teva?</p> <p>9 A. I don't remember if there were</p> <p>10 any blisters, but probably 30, if I had to</p> <p>11 guess, but I don't know off the top of my</p> <p>12 head.</p> <p>13 We had probably close to a</p> <p>14 thousand different products, NDCs or stock</p> <p>15 keeping units, so I don't know the package</p> <p>16 size of all of our products.</p> <p>17 Q. Okay. You made a reference to</p> <p>18 blisters. That's shorthand for blister</p> <p>19 packs.</p> <p>20 A. Yes.</p> <p>21 Q. And you made a reference to</p> <p>22 30.</p> <p>23 And my question is: Would a</p> <p>24 blister pack have been typically the</p>	<p style="text-align: right;">Page 42</p> <p>1 smallest dose unit if we're taking about a</p> <p>2 pill or a caplet?</p> <p>3 A. Yeah, but there could be a</p> <p>4 blister of one or two capsules or tablets</p> <p>5 also. I just don't remember, from a</p> <p>6 private label standpoint or other package</p> <p>7 sizes, that we sold those products.</p> <p>8 Q. Any idea what the larger sizes</p> <p>9 were of pills?</p> <p>10 A. On opioids?</p> <p>11 Q. Yeah. Bottles, for example.</p> <p>12 A. Probably 500s or 1,000s.</p> <p>13 Q. In a single bottle?</p> <p>14 A. Yes, but I don't know the --</p> <p>15 the answer --</p> <p>16 Q. Okay. All right.</p> <p>17 A. -- off the top of my head.</p> <p>18 Q. For what it's worth, sir, if</p> <p>19 you total up the scripts here for 2012 to</p> <p>20 2016, you get something in excess of</p> <p>21 84 million prescriptions -- Teva opioid</p> <p>22 prescriptions.</p> <p>23 Does anything about a number</p> <p>24 like that surprise you, based upon what you</p>
<p style="text-align: right;">Page 43</p> <p>1 knew of Teva, as president and CEO, when</p> <p>2 you were there until early 2018?</p> <p>3 MR. ERCOLE: Objection to the</p> <p>4 form; foundation, speculation.</p> <p>5 THE WITNESS: Couple things.</p> <p>6 On the generic side, I don't look at it</p> <p>7 on a product-by-product basis. Whether</p> <p>8 it's opioids, we sell blood pressure</p> <p>9 medications, oral contraceptives -- we</p> <p>10 have a whole host of products that we</p> <p>11 sell. So the fact that the volumes</p> <p>12 were growing of generic pharmaceuticals</p> <p>13 in general didn't surprise me.</p> <p>14 Healthcare was moving from</p> <p>15 brands to generics, and the total</p> <p>16 generic marketplace was growing</p> <p>17 significantly over a period of time, as</p> <p>18 people moved from the brand to the</p> <p>19 generic for a lower-cost alternative.</p> <p>20 So just this by itself, does it</p> <p>21 surprise me? No. The amount of</p> <p>22 prescriptions were growing into the</p> <p>23 billions for the overall generic</p> <p>24 marketplace.</p>	<p style="text-align: right;">Page 44</p> <p>1 BY MR. KIEFFER:</p> <p>2 Q. And that would include opioids</p> <p>3 as well?</p> <p>4 A. Absolutely.</p> <p>5 Q. Okay. And regardless of the</p> <p>6 specific numbers, no doubt about it, in the</p> <p>7 time that you were at Teva, it had a</p> <p>8 significant presence in the US market for</p> <p>9 generic opioids.</p> <p>10 We can agree on that?</p> <p>11 MR. ERCOLE: Objection to form;</p> <p>12 calls for an improper characterization.</p> <p>13 THE WITNESS: Teva, Actavis,</p> <p>14 Watson, as being some of the larger</p> <p>15 companies in the industry, had</p> <p>16 tremendous volumes of all products.</p> <p>17 We launched a number of new</p> <p>18 generic products between 2012 and 2016.</p> <p>19 So, you know, I can't tell from this</p> <p>20 how many products this represents,</p> <p>21 whether the growth was due to new</p> <p>22 product launches or one single chemical</p> <p>23 entity.</p> <p>24 I'm going to go out on a limb</p>

<p style="text-align: right;">Page 45</p> <p>1 and guess that it's multiple products,  2 because we were launching products in  3 all classes, not just opioids, during  4 that period of time. A tremendous  5 amount of new product launches that we  6 were bringing to the market to lower  7 the cost of healthcare.  8 BY MR. KIEFFER:  9 Q. Understood. My question was a  10 little more basic than that.  11 I don't think it's in dispute  12 there were new product launches, and I  13 don't think it's in dispute that Teva and  14 Actavis and Watson were significant players  15 in the generic pharmaceutical industry.  16 My question was: In the time  17 that you were at Teva, as president and CEO  18 of North America -- Teva USA North America,  19 you understood that Teva had a significant  20 presence in the generic opioid market?  21 MR. ERCOLE: Objection to form.  22 And again, it's assumed, before you  23 answer, that we're referring to Teva  24 USA; is that correct?</p>	<p style="text-align: right;">Page 46</p> <p>1 MR. KIEFFER: For that  2 question, we certainly were.  3 MR. ERCOLE: Okay.  4 THE WITNESS: I think Teva had  5 a significant presence in the generic  6 pharmaceutical industry.  7 What I don't have in front of  8 me is how big was Teva compared to our  9 competitors on opioids. If you've got  10 that, I'm more than willing to look at  11 it.  12 But we were a large player in  13 generic pharmaceuticals, but I can't  14 tell you what percentage of the market,  15 from an opioid standpoint, this would  16 have been or not been.  17 It looks to me like, you know,  18 you've only got a piece of the question  19 that you're asking, so I can't really  20 give you an answer.  21 BY MR. KIEFFER:  22 Q. Yeah. And the question,  23 again, that I asked was simpler. I wasn't  24 asking you for the market share of others</p>
<p style="text-align: right;">Page 47</p> <p>1 or necessarily to even vouch for these  2 numbers.  3 My question was: As president  4 and CEO of Teva USA North America, when you  5 were there, you understood Teva had a  6 significant presence in the market for US  7 generic opioids?  8 MR. ERCOLE: Again, objection;  9 asked and answered.  10 THE WITNESS: How are you  11 defining "significant"?  12 BY MR. KIEFFER:  13 Q. And if you don't know the  14 answer or you are unable to answer, I'll  15 accept that.  16 A. Unless you can tell me what  17 the definition of "significant" is, I  18 really have no way of telling you what that  19 answer is.  20 Q. Okay. If I were to ask you,  21 during your time as president and CEO of  22 Teva North America, whether Teva was the  23 No. 1 US manufacturer of generic opioids,  24 the No. 2, the No. 5 or the No. 25, would</p>	<p style="text-align: right;">Page 48</p> <p>1 you be able to answer that question?  2 A. I don't know the number, but I  3 would say we were in the top three.  4 Q. And if you were in the top  5 three -- "you" being Teva -- who were the  6 other two?  7 A. I would expect Mallinckrodt to  8 be one of those. And I would expect  9 probably Mylan to be one of those.  10 Q. If the data reflects that,  11 during the period of 2012 to 2016, Teva  12 supplied literally billions of  13 opioid-containing pills and tablets and  14 other dose units of products to the US  15 market, would that surprise you?  16 MR. ERCOLE: Objection to form.  17 Again, I just -- can we just make sure  18 this is absolutely clear, that these  19 questions, when you're referring to  20 Teva, it's Teva USA; correct?  21 MR. KIEFFER: I'll tell you  22 what, we'll say it's Teva USA unless I  23 specify otherwise. Okay?  24 MR. ERCOLE: Okay. That's</p>

<p style="text-align: right;">Page 49</p> <p>1 fair. Thank you.</p> <p>2 MR. KIEFFER: All right. Sure.</p> <p>3 MR. ERCOLE: Do you mind</p> <p>4 reasking that question? I appreciate</p> <p>5 it.</p> <p>6 BY MR. KIEFFER:</p> <p>7 Q. Sure. If the data reflects</p> <p>8 that, during the period of 2012 to 2016,</p> <p>9 Teva supplied literally billions of tablets</p> <p>10 and capsules and other dose units of</p> <p>11 generic opioids to the US market, would</p> <p>12 that surprise you?</p> <p>13 MR. ERCOLE: I'm going to</p> <p>14 object to form. Vague referring to</p> <p>15 sort of Teva as an unspecified entity.</p> <p>16 If you're referring to Teva USA, that's</p> <p>17 one thing. And asked and answered.</p> <p>18 THE WITNESS: So as large as</p> <p>19 Teva was as a generic supplier, I don't</p> <p>20 know how many billions of tablets by</p> <p>21 therapeutic area, because we didn't</p> <p>22 look at the business that way. We</p> <p>23 looked at it as overall generic</p> <p>24 company.</p>	<p style="text-align: right;">Page 50</p> <p>1 So I don't know if it was</p> <p>2 billions or not. It could very well</p> <p>3 be, but without seeing the data and the</p> <p>4 size of the prescriptions, it's hard</p> <p>5 for me to tell you how many -- how many</p> <p>6 billions or millions of tablets we sold</p> <p>7 of opioids versus anything else.</p> <p>8 BY MR. KIEFFER:</p> <p>9 Q. Fair enough. But if it turns</p> <p>10 out the number is in the billions, that</p> <p>11 wouldn't surprise you?</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 THE WITNESS: I don't think</p> <p>14 that it would.</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. Okay. A substantial</p> <p>17 percentage of the dispensed opioid</p> <p>18 prescriptions from retail pharmacies in the</p> <p>19 United States are generic opioids. True?</p> <p>20 A. I think the overall generic</p> <p>21 market, in general, is better than</p> <p>22 85 percent generic --</p> <p>23 Q. Okay.</p> <p>24 A. -- and that would include</p>
<p style="text-align: right;">Page 51</p> <p>1 opioids.</p> <p>2 Q. Okay. I think it's clear from</p> <p>3 your question [sic], when you say the</p> <p>4 "overall generic market," you mean across</p> <p>5 the board, all medications?</p> <p>6 A. All generic medications are</p> <p>7 85 percent of the US market of a product</p> <p>8 being dispensed in the US today.</p> <p>9 Q. And so, for example, if there</p> <p>10 is data that would reflect, for example, in</p> <p>11 2016, that approximately 96 percent of all</p> <p>12 filled opioid prescriptions -- all opioid</p> <p>13 prescriptions filled by US pharmacies were</p> <p>14 filled with a generic opioid, that wouldn't</p> <p>15 surprise you?</p> <p>16 MR. ERCOLE: Objection to form;</p> <p>17 foundation.</p> <p>18 THE WITNESS: It's larger than</p> <p>19 85 percent, so, you know, it could very</p> <p>20 well be. I don't know the answer.</p> <p>21 BY MR. KIEFFER:</p> <p>22 Q. Are you familiar with a group</p> <p>23 called the IMS National Prescription Drug</p> <p>24 Audit?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes.</p> <p>2 Q. What is that?</p> <p>3 A. IMS is the company that</p> <p>4 captures prescription data, warehouse</p> <p>5 movement data of product from a warehouse</p> <p>6 down to retail, and provides information</p> <p>7 back to the industry and to, you know, all</p> <p>8 aspects of the healthcare community.</p> <p>9 Q. Okay. It's recognized as</p> <p>10 industry standard data?</p> <p>11 A. That is correct.</p> <p>12 Q. Okay. Did you use IMS</p> <p>13 National Prescription Audit data from time</p> <p>14 to time when you worked for Watson and</p> <p>15 Actavis and Teva?</p> <p>16 MR. ERCOLE: Objection to form.</p> <p>17 Which Teva entity are you referring to?</p> <p>18 MR. KIEFFER: I think I told</p> <p>19 you, Teva USA, unless I specify</p> <p>20 otherwise.</p> <p>21 MR. ERCOLE: Oh, okay. The</p> <p>22 record had it otherwise, but that's</p> <p>23 fair. Yes, if that's the agreement,</p> <p>24 then I appreciate that.</p>



1 THE WITNESS: So I think that  
2 that's what we utilized, was the  
3 prescription-level data at all those  
4 different entities.

5 I don't know if we called it  
6 NPA, but we did utilize data to  
7 understand the marketplace for  
8 forecasting purposes.

9 BY MR. KIEFFER:

10 Q. Okay. And, again, I don't  
11 want to bog us down looking at documents  
12 just for the sake of looking at them, but,  
13 for example, if there is IMS National  
14 Prescription Audit data that would reflect,  
15 for the year 2016, that approximately  
16 96 percent of all prescriptions for opioids  
17 in the United States were filled with a  
18 generic opioid, that wouldn't surprise you?

19 MR. ERCOLE: Objection to form;  
20 speculation, foundation.

21 THE WITNESS: I don't know that  
22 it would surprise me, no.

23 BY MR. KIEFFER:

24 Q. And you wouldn't necessarily

1 have a reason to dispute it, if indeed that  
2 is what the IMS National Prescription Audit  
3 data reflects, because they are a reliable  
4 source?

5 MR. ERCOLE: Objection.

6 THE WITNESS: That is correct.

7 BY MR. KIEFFER:

8 Q. Do you believe, sir, that --  
9 well, strike that.

10 The company you work for  
11 now -- what's the name of it again?

12 A. Amneal Pharmaceuticals.

13 Q. Do they make opioids?

14 A. Yes.

15 Q. Okay. What kinds of opioids  
16 do they make?

17 MR. ERCOLE: Objection to the  
18 form; relevance. What's the basis for  
19 asking?

20 MR. KIEFFER: Just general  
21 background.

22 MR. ERCOLE: I mean, I'll give  
23 you some leeway to ask some questions,  
24 but --

1 MR. KIEFFER: Yeah. I'm not  
2 going to spend a lot of time on it.

3 MR. CRAWFORD: Amneal is a  
4 defendant in the litigation.

5 MR. ERCOLE: Not in this  
6 particular case at all. This  
7 deposition is for Summit, and they're  
8 not a defendant in this case.

9 MR. KIEFFER: It's very general  
10 information.

11 BY MR. KIEFFER:

12 Q. Generally, what type of  
13 opioids do they produce?

14 A. Hydrocodone, oxycodone are two  
15 of them, for sure.

16 Q. Okay. Again, general  
17 question, and then I'll move on.

18 In terms of the breadth of  
19 their product line, is it, in general,  
20 narrower than Teva's?

21 A. Yes.

22 Q. Okay. Okay. Do you believe  
23 that a public health emergency exists  
24 nationwide and that there is a crisis

1 affecting the country as a consequence of  
2 opioid abuse and addiction?

3 MR. ERCOLE: Objection to form;  
4 vague.

5 THE WITNESS: I would say that  
6 there is an opioid problem in the  
7 United States, yes.

8 BY MR. KIEFFER:

9 Q. Thank you. My question was a  
10 little bit more specific.

11 Do you believe that there is a  
12 public health emergency that exists  
13 nationwide and that there is a crisis  
14 affecting this country as a consequence of  
15 opioid abuse and addiction?

16 MR. ERCOLE: Objection to form;  
17 calls for speculation, improper  
18 question.

19 THE WITNESS: I think,  
20 depending on what your definition is,  
21 I'd say that there's a problem in the  
22 United States with opioids.

23 MR. KIEFFER: Okay.

24 - - -

<p style="text-align: right;">Page 57</p> <p>1 (Teva-Boyer No. 003 was marked for 2 identification.) 3 - - - 4 BY MR. KIEFFER: 5 Q. Sir, we've just handed you as 6 Exhibit No. 3 a document, a determination 7 by Eric Hargan, the acting secretary of the 8 Department of Health and Human Services, 9 captioned "Determination that a public 10 health emergency exists," and it's dated 11 10/26 of '17. 12 Do you see the document that 13 I'm referring to? 14 A. Yes, I do. 15 Q. This document states, "As a 16 result of the consequences of the opioid 17 crisis affecting our Nation, on this date 18 and after consultation with public health 19 officials as necessary, I, Eric D. Hargan, 20 Acting Secretary of Health and Human 21 Services, pursuant to the authority vested 22 in me under section 319 of the Public 23 Health Service Act, do hereby determine 24 that a public health emergency exists</p>	<p style="text-align: right;">Page 58</p> <p>1 nationwide." 2 Do you see what I just read? 3 A. Yes. 4 Q. Were you aware that this 5 determination had been made by the acting 6 secretary of the Department of Health and 7 Human Services? 8 A. No. 9 Q. Today is the first time you've 10 learned of that? 11 A. First time I've seen that, 12 yes. 13 Q. First time you've seen this 14 document or learned that the acting 15 secretary of the Department of Health and 16 Human Services, in October of 2017, made 17 this determination, that a public health 18 emergency existed? 19 A. Both. 20 Q. Both. Okay. 21 At this time -- this was dated 22 10/26 of '17. That was post -- strike 23 that. Let me ask a better question. 24 The Teva acquisition of</p>
<p style="text-align: right;">Page 59</p> <p>1 Actavis -- 2 A. Yes. 3 Q. I don't want to get us into 4 the legal weeds, but is "acquisition" -- is 5 that the correct term to use? 6 MR. ERCOLE: Objection to form. 7 THE WITNESS: I believe that 8 Teva -- it acquired the Actavis 9 business, generic business. 10 BY MR. KIEFFER: 11 Q. Okay. And I'm not trying to 12 bind you or Teva with a question like this, 13 but in terms of a merger, you understood it 14 more to be in the nature of an acquisition, 15 at least insofar as you understand those 16 terms are commonly used? 17 MR. ERCOLE: Objection to form; 18 calls for a legal conclusion. 19 THE WITNESS: Yes. 20 BY MR. KIEFFER: 21 Q. Okay. Now, October 26 of 2017 22 was after Teva acquired Actavis; correct? 23 A. Yes. 24 Q. And it was still during the</p>	<p style="text-align: right;">Page 60</p> <p>1 period of time that you were employed by 2 Teva? 3 A. That is correct. 4 Q. As president and CEO of North 5 America? 6 A. That is correct. 7 Q. Okay. As president and CEO of 8 Teva North America, do you think it -- do 9 you think it was important to remain 10 abreast of significant developments, such 11 as a determination by the acting secretary 12 of the Department of Health and Human 13 Services that there was a public health 14 emergency as a consequence of the opioid 15 crisis? 16 MR. ERCOLE: Objection to form. 17 THE WITNESS: I think if you 18 look at what the generic companies do, 19 which is supply product based upon a 20 forecasted need of our customers, I 21 think that we had policies in place as 22 relates to suspicious order management 23 that was being managed by our DEA 24 compliance organization and -- and I</p>

<p style="text-align: right;">Page 61</p> <p>1 would hope that our systems that were</p> <p>2 in place were managing it accordingly,</p> <p>3 based upon any kind of a public</p> <p>4 announcement that way.</p> <p>5 BY MR. KIEFFER:</p> <p>6 Q. Okay. My question was a</p> <p>7 little bit different.</p> <p>8 I understand that there may be</p> <p>9 systems in place and that there are</p> <p>10 different departments, but in your role as</p> <p>11 the president and CEO, at the time, of Teva</p> <p>12 North America, did you feel that it was</p> <p>13 important to remain abreast of significant</p> <p>14 departments in government, such as a</p> <p>15 determination by the Department of Health</p> <p>16 and Human Services that there was a public</p> <p>17 health emergency as a consequence of the</p> <p>18 opioid crisis, particularly given that Teva</p> <p>19 manufactured opioids?</p> <p>20 MR. ERCOLE: Object to form.</p> <p>21 THE WITNESS: I would say it</p> <p>22 would be important for me to make sure</p> <p>23 that the company was running the</p> <p>24 business in accordance with rules and</p>	<p style="text-align: right;">Page 62</p> <p>1 regulations and laws of the -- of the</p> <p>2 distribution of our products, whether</p> <p>3 it be opioids or anything else.</p> <p>4 And, yes, it's something that I</p> <p>5 was probably not directly aware of the</p> <p>6 exact letter, but was aware of opioids</p> <p>7 in the United States and the problem.</p> <p>8 BY MR. KIEFFER:</p> <p>9 Q. Did -- did the suspicious</p> <p>10 order monitoring function report to you?</p> <p>11 A. No, it did not.</p> <p>12 Q. Who did it report to?</p> <p>13 A. It reported in to another part</p> <p>14 of the organization. I think you would</p> <p>15 want a separation of a church and state.</p> <p>16 The compliance organization, you would not</p> <p>17 want that to roll up to a commercial</p> <p>18 organization, so it was a completely</p> <p>19 separate entity, outside of commercial.</p> <p>20 Q. Okay. And when you say it</p> <p>21 rolled up to a different part of the</p> <p>22 organization, what part of the organization</p> <p>23 did it ultimately roll up to?</p> <p>24 A. I don't know the answer.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. But not you?</p> <p>2 A. Definitely not commercial.</p> <p>3 Q. And when you say "commercial,"</p> <p>4 that's the side of the business you were</p> <p>5 on?</p> <p>6 A. That is correct.</p> <p>7 Q. The side you were in?</p> <p>8 A. Right. As president and CEO,</p> <p>9 I was responsible for sales, marketing,</p> <p>10 pricing, contracts, customer service, and</p> <p>11 distribution -- actually, not even</p> <p>12 distribution at that point in time at Teva.</p> <p>13 Everything but distribution.</p> <p>14 Q. Okay. And so you were not</p> <p>15 involved, on any kind of a regular basis,</p> <p>16 with anything having to do with suspicious</p> <p>17 order monitoring?</p> <p>18 A. That's correct.</p> <p>19 Q. Were you involved at all with</p> <p>20 a suspicious order monitoring?</p> <p>21 MR. ERCOLE: Objection to form;</p> <p>22 time period.</p> <p>23 BY MR. KIEFFER:</p> <p>24 Q. You were when president and</p>	<p style="text-align: right;">Page 64</p> <p>1 CEO of Teva North America.</p> <p>2 A. No, I was not.</p> <p>3 Q. Not at all?</p> <p>4 A. Not at all.</p> <p>5 Q. Okay. Now, you used the</p> <p>6 phrase a moment ago that intrigued me a</p> <p>7 little. You used the phrase "separation of</p> <p>8 church and state."</p> <p>9 A. That's correct.</p> <p>10 Q. Is it your testimony that, in</p> <p>11 your time as president and CEO of Teva</p> <p>12 North America, there was a total separation</p> <p>13 between the commercial side of the business</p> <p>14 that you ran and monitoring, ordering for</p> <p>15 suspicious order patterns and drug</p> <p>16 diversion and things of that nature?</p> <p>17 A. No, not at all.</p> <p>18 Q. So if there was not a total --</p> <p>19 strike that.</p> <p>20 You testified a moment ago you</p> <p>21 didn't have anything to do with suspicious</p> <p>22 order monitoring?</p> <p>23 A. Me personally, yes, that's</p> <p>24 correct.</p>

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1 Q. And people that reported to  
2 you as well?

3 A. People that reported to me  
4 were responsible for providing data, from  
5 customer service, for instance, order  
6 management systems. That would kick out of  
7 our systems, and that would go to DEA  
8 compliance, but that had nothing to do with  
9 me on a daily basis.

10 But the customer service  
11 organization did report up through me.

12 Q. Customer service did?

13 A. Yeah. Order management,  
14 customer service.

15 Q. But in terms of looking at  
16 ordering patterns, particular customers,  
17 trends, areas of concern, those were not  
18 issues that you ever looked at when you  
19 were president and CEO of Teva North  
20 America; correct?

21 MR. ERCOLE: Objection to form.

22 You're asking him in his  
23 individual capacity, I assume?

24 MR. KIEFFER: Yeah.

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1 THE WITNESS: So my  
2 responsibility was sales and marketing,  
3 pricing contracts and customer service.  
4 I did not have responsibility for the  
5 suspicious order management process.  
6 That did take and report up through a  
7 separate portion of the organization.

8 BY MR. KIEFFER:

9 Q. You think it might be  
10 beneficial for a company like Teva to have  
11 data flowing to someone at as senior level  
12 as you occupied when you were there  
13 regarding suspicious order monitoring so  
14 that you could determine whether any  
15 activities of a sales or marketing nature  
16 that might be taking place on the  
17 commercial side were having an effect,  
18 intended or unintended, on suspicious  
19 orders?

20 MR. ERCOLE: Objection to form;  
21 compound, vague.

22 THE WITNESS: In my opinion,  
23 there isn't really anything that sales  
24 and marketing can do to influence those

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1 orders.

2 The customer has a forecast and  
3 a historical utilization. There's an  
4 algorithm that's been determined,  
5 across almost all the entities that I  
6 ever worked for, that was managed by  
7 the DEA compliance organizations, and  
8 they were responsible for either  
9 allowing orders to be released or  
10 holding orders from being released,  
11 based upon the information they were  
12 provided by the customer and their  
13 historical utilization.

14 That is not something that  
15 sales and marketing had the ability to  
16 influence or weigh in on.

17 BY MR. KIEFFER:

18 Q. You have not, at any point in  
19 time, even as president and CEO of Teva  
20 USA, undertaken to do any kind of review to  
21 determine the sufficiency or lack thereof  
22 of Teva's suspicious order monitoring  
23 system; is that true?

24 MR. ERCOLE: Objection to form.

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1 THE WITNESS: That is correct.  
2 As president and CEO, the  
3 responsibility was a commercial CEO. I  
4 was not responsible for the other areas  
5 of the business that you're speaking  
6 of.

7 BY MR. KIEFFER:

8 Q. Okay.

9 A. That was a title.

10 Q. I'm sorry?

11 A. That was a title, the  
12 president and CEO, but the responsibilities  
13 were that of a commercial entity.

14 Q. If there has been evidence  
15 produced previously in this litigation --  
16 documents and testimony -- to indicate  
17 that, as of 2012, the company that now goes  
18 by the name of Teva had not made a single  
19 report of a suspicious order of an opioid  
20 product to the DEA, is that anything that  
21 you are aware of?

22 MR. ERCOLE: Objection to form;  
23 it's vague, improper legal conclusion.  
24 You can answer if you can.

<p style="text-align: right;">Page 69</p> <p>1 THE WITNESS: I am not aware of</p> <p>2 it.</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Okay. And if there's been</p> <p>5 evidence produced previously in this</p> <p>6 litigation, in the form of documents and</p> <p>7 testimony, to indicate that, as of 2012,</p> <p>8 the company that now goes by the name of</p> <p>9 Teva hadn't made a single report to the DEA</p> <p>10 of a suspicious order, would that surprise</p> <p>11 you?</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 He didn't even work for Teva in 2012.</p> <p>14 THE WITNESS: I can't speak on</p> <p>15 behalf of the company prior to August</p> <p>16 of 2016.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Okay. Would it concern you?</p> <p>19 MR. ERCOLE: Same objection.</p> <p>20 THE WITNESS: I don't know what</p> <p>21 their process was in 2012.</p> <p>22 BY MR. KIEFFER:</p> <p>23 Q. One way that a company like</p> <p>24 Teva or Actavis or Watson, when you worked</p>	<p style="text-align: right;">Page 70</p> <p>1 for them, can help prevent abuse of opioids</p> <p>2 is to take reasonable and necessary steps</p> <p>3 to prevent diversion of their products.</p> <p>4 Correct?</p> <p>5 MR. ERCOLE: Objection to form.</p> <p>6 THE WITNESS: I think that we</p> <p>7 had a responsibility, as far as a</p> <p>8 suspicious order management system that</p> <p>9 I am not party to. That was not my</p> <p>10 area of responsibility. And I believe</p> <p>11 if that's what was required, according</p> <p>12 to the companies -- and I would hope</p> <p>13 that we had the right process in place</p> <p>14 to prevent what you're asking about.</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. And the last part of your</p> <p>17 answer was that you "would hope that we had</p> <p>18 the right process in place to prevent what</p> <p>19 you're asking about." Correct?</p> <p>20 A. That is correct.</p> <p>21 Q. All right.</p> <p>22 A. I can't speak to a process</p> <p>23 that I wasn't a part of.</p> <p>24 MR. KIEFFER: Let me hand you</p>
<p style="text-align: right;">Page 71</p> <p>1 what we've marked as Exhibit 4, and it</p> <p>2 looks like the last page came</p> <p>3 unstapled, so be a little careful there</p> <p>4 that you don't snag your finger.</p> <p>5 - - -</p> <p>6 (Teva-Boyer No. 004 was marked for</p> <p>7 identification.)</p> <p>8 - - -</p> <p>9 BY MR. KIEFFER:</p> <p>10 Q. Sir, Exhibit 4 is a document</p> <p>11 with a Bates label, in the lower right-hand</p> <p>12 corner, of TEVA_MDL_A_12682275. This is an</p> <p>13 additional set of materials that counsel</p> <p>14 for Teva provided to us, that came from</p> <p>15 your custodial file. It beginnings with an</p> <p>16 email dated February 4th, 2013, from Sara</p> <p>17 Copp to you and others. The subject is,</p> <p>18 "Sales &amp; Marketing (POA) Meeting</p> <p>19 Presentations 1/7 to 1/10/2013."</p> <p>20 Do you see what I'm referring</p> <p>21 to there?</p> <p>22 A. Yes.</p> <p>23 Q. Who is Sara Copp?</p> <p>24 A. My executive assistant.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. All right. If you</p> <p>2 would, turn to the third page of Exhibit</p> <p>3 No. 4. That appears to be the cover page</p> <p>4 of a PowerPoint presentation.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And it's titled "DEA</p> <p>8 Compliance Updates - SOM, U.S. Order</p> <p>9 Management, January 2013." Correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If your executive</p> <p>12 assistant was forwarding this particular</p> <p>13 slide deck to you in February of 2013,</p> <p>14 would that have been because this might be</p> <p>15 material you were involved in presenting?</p> <p>16 A. No.</p> <p>17 Q. Okay. Material you might be</p> <p>18 involved in pulling together?</p> <p>19 A. No.</p> <p>20 Q. Material that might be</p> <p>21 pertinent to something you were about to</p> <p>22 attend?</p> <p>23 A. No.</p> <p>24 Q. Okay. What are the reasons</p>



<p style="text-align: right;">Page 73</p> <p>1 that your executive assistant might have 2 been sending you this particular slide deck 3 we have as Exhibit 4? 4 MR. ERCOLE: Feel free to read 5 through the slides. 6 THE WITNESS: Yeah, I'm just 7 looking to see, because I've never seen 8 it before, so I'm going to look at it. 9 So this may have been an update 10 by different parts of the organization, 11 just to let the balance of the sales 12 and the organization know some of the 13 activities that were going on in the 14 organization. So more of an update 15 than anything else. 16 Mary Woods was responsible for 17 the US order management system of 18 Actavis, and she was giving an update 19 of some of her -- you know, some of her 20 activities and what we may be getting 21 done as part of the combination of 22 Watson and Actavis. 23 The area of this that I 24 probably did as a presentation probably</p>	<p style="text-align: right;">Page 74</p> <p>1 begins on the US commercial update. 2 That looks more along the lines of a 3 presentation that I may have done and 4 put together on behalf of the 5 combination of Watson and Actavis. 6 BY MR. KIEFFER: 7 Q. Okay. So you might have had a 8 hand in developing a portion of the 9 information in this package? 10 A. The back end of it, yes. 11 Q. The back end of it. 12 All right. Well, let me ask 13 you about a couple of things in here, if I 14 may, and particularly we'll get to stuff 15 you might have had a hand in. 16 As to the title that appears 17 on the first page of that, "DEA Compliance 18 Updates - SOM," "SOM" stands for 19 "suspicious order management"; right? 20 A. Yes, I'm assuming so. 21 Q. And without asking you for a 22 legal conclusion or getting you into the 23 legal weeds, you understand that a company 24 like Actavis, and Watson at the time, did</p>
<p style="text-align: right;">Page 75</p> <p>1 have certain obligations, under US law, to 2 undertake monitoring of orders of scheduled 3 control substances, some type of 4 monitoring? 5 A. I would agree. 6 Q. Looking forward -- again, this 7 is general; not trying to marry you to the 8 legal weeds -- but monitoring for orders 9 that could be, quote, suspicious, in terms 10 of their size or their frequency or the 11 nature of the product or other criteria, 12 potentially? 13 MR. ERCOLE: Objection to form; 14 vague. 15 THE WITNESS: I'm assuming that 16 there was an obligation to do that. We 17 looked at all of our orders, not just 18 controlled substances. But yes, that 19 was part of the order management's 20 responsibility. 21 BY MR. KIEFFER: 22 Q. If you turn to the first page 23 after the cover page, there's a little bit 24 of an organizational chart. It has the</p>	<p style="text-align: right;">Page 76</p> <p>1 name of the lady you referenced, Mary 2 Woods, as US order management. 3 Again, to be clear, did she 4 report up through you? 5 A. Up through me, yes. 6 Q. And did she have a hand in the 7 suspicious order monitoring function then? 8 A. She was part of customer 9 commerce service and order management, yes. 10 Q. Okay. Turn to the next page, 11 which is, I think, according to my count, 12 the fifth page into the overall exhibit. 13 The heading is "DEA Compliance Updates: 14 SOM," for "suspicious order management," 15 and this states, "Combined Watson plus 16 Actavis product are the most widely 17 diverted and receive the highest scrutiny 18 from the DEA." 19 Do you see what I just read 20 there? 21 A. That is correct. 22 Q. Were you aware of that at the 23 time that you were president/CEO of Teva 24 North America?</p>

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1 MR. ERCOLE: Objection to form.  
 2 THE WITNESS: This is prior to  
 3 the president and CEO of Teva North  
 4 America.  
 5 BY MR. KIEFFER:  
 6 Q. I'm sorry.  
 7 A. This is when I was responsible  
 8 for Watson and Actavis.  
 9 Q. Okay.  
 10 A. I was not aware of that.  
 11 Q. Okay. Let me clean up the  
 12 question. And thank you for -- your answer  
 13 was more precise than my question.  
 14 This document, just to refresh  
 15 our memory, is dated February 4, 2013.  
 16 At that point in time, Watson  
 17 and Actavis had combined into one company;  
 18 correct?  
 19 A. I believe that by then it was,  
 20 yes.  
 21 Q. Okay. And what would your  
 22 title have been at that time?  
 23 A. Senior vice president of sales  
 24 and marketing.

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1 looks like a presentation -- you'd have to  
 2 ask Mary Woods, though -- that she provided  
 3 data that she had gotten from DEA  
 4 compliance, because she wouldn't have been  
 5 in charge of this aspect of it. But she  
 6 had the interaction with our DEA compliance  
 7 team.  
 8 So, yeah, I was not aware of  
 9 that.  
 10 Q. Okay. Today is the first time  
 11 you were made aware of this?  
 12 A. Yes.  
 13 Q. Okay. Having been made aware  
 14 of it, does it concern you about anything  
 15 that may have been happening or not  
 16 happening with respect to DEA compliance at  
 17 Watson and Actavis in 2013, when you were a  
 18 senior officer in that organization?  
 19 MR. ERCOLE: Objection to form.  
 20 THE WITNESS: I would say that  
 21 any of our product, knowing that  
 22 they're prescription pharmaceuticals,  
 23 whether it be a DEA product or any  
 24 other product, I would be concerned

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1 Q. The senior vice president of  
 2 sales and marketing for Watson and Actavis?  
 3 A. It would have been called  
 4 Watson at the time, Watson Pharma.  
 5 Q. All right. And as senior vice  
 6 president of sales and marketing for Watson  
 7 Pharma in 2013, were you the most senior  
 8 sales officer in the organization?  
 9 MR. ERCOLE: Objection to form.  
 10 THE WITNESS: I was the most  
 11 senior -- US commercial person in the  
 12 organization.  
 13 BY MR. KIEFFER:  
 14 Q. Okay. And who did you report  
 15 to at that time?  
 16 A. I believe Siggi Olafsson.  
 17 Q. Okay. And as senior vice  
 18 president of sales and marketing for Watson  
 19 Pharma in 2013, am I correct, from your  
 20 last answer, you were not aware that  
 21 combined Watson and Actavis products were  
 22 the most widely diverted and received the  
 23 highest scrutiny from the DEA?  
 24 A. That is correct. This, to me,

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1 that it was the most widely diverted.  
 2 BY MR. KIEFFER:  
 3 Q. Was any information ever  
 4 shared with you in 2013, when you were a  
 5 senior officer at Watson Pharma, about the  
 6 reason or reasons why Watson and Actavis  
 7 product were the most widely diverted and  
 8 received the highest scrutiny from the DEA?  
 9 A. No. I don't even know if  
 10 that's something that's true or something  
 11 they perceived.  
 12 Q. Sure.  
 13 A. I don't know where it came  
 14 from.  
 15 Q. Okay. Well, let's assume for  
 16 the moment, for purposes of the next  
 17 question, that it's true.  
 18 A. Okay.  
 19 Q. At the time, which is  
 20 February 2013, who ultimately in the  
 21 organization would have been responsible  
 22 for an issue like this? Understanding the  
 23 reasons why and taking whatever steps might  
 24 be necessary to address them.

<p style="text-align: right;">Page 81</p> <p>1 MR. ERCOLE: Objection to form.</p> <p>2 THE WITNESS: It would start</p> <p>3 with DEA compliance.</p> <p>4 BY MR. KIEFFER:</p> <p>5 Q. Okay. And who was that person</p> <p>6 at the time?</p> <p>7 A. I don't remember at the time</p> <p>8 who that was.</p> <p>9 Q. Okay. You said it would start</p> <p>10 with DEA compliance. And who would it end</p> <p>11 with?</p> <p>12 A. I think that would roll up</p> <p>13 through whoever the DEA compliance was</p> <p>14 reporting into. Probably operations and</p> <p>15 then on up to the CEO.</p> <p>16 Q. Okay. Do you know who was in</p> <p>17 charge of operations at Watson Pharma in</p> <p>18 2013?</p> <p>19 A. I don't know exactly who it</p> <p>20 was. There were a number of people at the</p> <p>21 time.</p> <p>22 Q. If you turn two pages further</p> <p>23 in that Exhibit 4, sir, there's a heading</p> <p>24 that says "DEA Compliance Updates - SOM."</p>	<p style="text-align: right;">Page 82</p> <p>1 The first statement is:</p> <p>2 "Manufacturers being held</p> <p>3 accountable.</p> <p>4 "Need to have a clear</p> <p>5 understanding of where product is going."</p> <p>6 Do you see that?</p> <p>7 A. That's correct.</p> <p>8 Q. And then the second bullet</p> <p>9 says:</p> <p>10 "Expectation is to: Know your</p> <p>11 customers' customer."</p> <p>12 Do you see that as well?</p> <p>13 A. Yes, I do.</p> <p>14 Q. When you were senior vice</p> <p>15 president of sales and marketing for Watson</p> <p>16 Pharma in 2013, did you undertake any steps</p> <p>17 to ensure that, on the sales side of the</p> <p>18 organization, all data that could</p> <p>19 reasonably be captured was captured that</p> <p>20 would reflect where your opioid products</p> <p>21 were going and who your customers'</p> <p>22 customers were?</p> <p>23 MR. ERCOLE: Objection to the</p> <p>24 form; lack of foundation, compound.</p>
<p style="text-align: right;">Page 83</p> <p>1 THE WITNESS: I don't recall</p> <p>2 what DEA would have asked the</p> <p>3 organization at that period of time. I</p> <p>4 do not know.</p> <p>5 BY MR. KIEFFER:</p> <p>6 Q. That type of information,</p> <p>7 though, information that would reflect a</p> <p>8 clear understanding by Watson Pharma of</p> <p>9 where its opioid products were going and</p> <p>10 who its customers' customers were, the</p> <p>11 sales side of the organization would be the</p> <p>12 starting point for that information; right?</p> <p>13 MR. ERCOLE: Same objection;</p> <p>14 form.</p> <p>15 THE WITNESS: The sales side</p> <p>16 would know who our direct customer is.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Right.</p> <p>19 A. But beyond that, they probably</p> <p>20 would not know who the customers' customer</p> <p>21 is, no.</p> <p>22 Q. Okay. All right. And that --</p> <p>23 why is that, again, broadly speaking? Just</p> <p>24 because of the nature of the data that</p>	<p style="text-align: right;">Page 84</p> <p>1 Watson captured at the time?</p> <p>2 A. I just think the data</p> <p>3 available at the time, probably you</p> <p>4 wouldn't have all of that information.</p> <p>5 Q. Okay. So I don't want to go</p> <p>6 through a laundry list of customers, but</p> <p>7 certainly there were wholesalers that were</p> <p>8 customers of Watson Pharma in 2013?</p> <p>9 A. That is correct.</p> <p>10 Q. AmerisourceBergen being one?</p> <p>11 A. That is correct.</p> <p>12 Q. Was Cardinal one?</p> <p>13 A. Yes.</p> <p>14 Q. McKesson?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Walmart?</p> <p>17 A. Yes.</p> <p>18 Q. Walgreens Boots Alliance?</p> <p>19 A. Walgreens. Boots Alliance</p> <p>20 didn't exist at the time, I don't believe.</p> <p>21 Q. Okay. Fair enough.</p> <p>22 That Boots Alliance goes by an</p> <p>23 acronym WBAD. Some witnesses have said</p> <p>24 "webad"?</p>

1 A. That is correct.  
2 Q. And that is essentially a  
3 negotiating arm that negotiates  
4 pharmaceutical and generic pharmaceutical  
5 pricing on behalf of, for example,  
6 Walgreens?  
7 A. That is correct.  
8 Q. And AmerisourceBergen?  
9 A. That is correct.  
10 Q. And your memory -- and this is  
11 not a memory test, but your memory is, at  
12 least as of 2013, Boots Alliance did not  
13 exist?  
14 A. I don't know the answer when  
15 that came together.  
16 Q. Okay. Fair enough. Let me  
17 back up.  
18 So, for example, with respect  
19 to AmerisourceBergen and Cardinal and  
20 McKesson, those are recognized as three  
21 very large pharmaceutical distributors?  
22 A. Yes, they are.  
23 Q. And I think it was your  
24 testimony a moment ago that, in 2013, you

1 don't believe -- strike that.  
2 It was your testimony a moment  
3 ago that certainly Watson Pharma, in 2013,  
4 would have known who those customers were  
5 and the products they were buying, the  
6 volume of products and kind of historical  
7 buying patterns. True?  
8 MR. ERCOLE: Objection to form;  
9 compound, vague.  
10 THE WITNESS: I would agree.  
11 BY MR. KIEFFER:  
12 Q. But I understood from your  
13 testimony a moment ago that you don't  
14 believe that Watson Pharma, in 2013, likely  
15 knew who all of their customers were --  
16 "their" being the McKessons, the  
17 AmerisourceBergenens, the Cardinals;  
18 correct?  
19 A. We would have known the  
20 majority of them, but we wouldn't have  
21 known all of them. And we wouldn't have  
22 known if they were selling to another  
23 wholesaler distributor, who was selling  
24 down to another pharmacy or some other

1 entity that we wouldn't know.  
2 Q. You would not have known that?  
3 A. No, I wouldn't.  
4 Q. And so, for example, just to  
5 give us a couple of examples to try to make  
6 it clear to those of us that don't do this  
7 every day or at all.  
8 You said if -- let's take  
9 AmerisourceBergen -- or any of the  
10 wholesalers -- AmerisourceBergen, Cardinal,  
11 McKesson -- if they were selling your  
12 company's products to another wholesaler,  
13 did I understand you to say you would not  
14 have known that?  
15 MR. ERCOLE: Objection to form;  
16 I mean, it's vague, generalized.  
17 THE WITNESS: If they sold it  
18 under a contract price, we would have  
19 known that, but then we wouldn't have  
20 known where that next customer was  
21 selling. And if they sold it to them  
22 at the wholesale acquisition cost, the  
23 list price, we would not know where it  
24 went.

1 BY MR. KIEFFER:  
2 Q. Okay. Did that ever change  
3 during your time at this organization, even  
4 up through when you left in 2018 and the  
5 company was Teva?  
6 A. No.  
7 Q. Your answer would be the same  
8 if I ask you those same questions as it  
9 relates to early 2018?  
10 A. That is correct.  
11 Q. Okay. Where did you say, sir,  
12 you thought the information you supplied to  
13 this update might begin?  
14 A. Beginning with the "US  
15 Commercial Update."  
16 Q. Okay. Bear with me, because  
17 this wasn't numbered, as it was produced to  
18 us.  
19 All right. And that's dated  
20 January 2013.  
21 Are these -- and we can go --  
22 I don't intend to cover all of them, but  
23 the slides that would appear behind this  
24 heading "US Commercial Update," are those

<p style="text-align: right;">Page 89</p> <p>1 slides that either you prepared or somebody</p> <p>2 under your direction likely prepared?</p> <p>3 A. Not necessarily under my</p> <p>4 direction. There's some corporate slides</p> <p>5 here that would have been incorporated in</p> <p>6 from other entities within the</p> <p>7 organization.</p> <p>8 Q. Okay. If you consider that</p> <p>9 slide that says "US Commercial Update" to</p> <p>10 be Page 1, if you then turn 12 pages, there</p> <p>11 is a slide that says "Overall US Strategy."</p> <p>12 A. Okay.</p> <p>13 Q. Are you there?</p> <p>14 A. Yes, I am.</p> <p>15 Q. The first bullet there says,</p> <p>16 "Maximize value of product portfolio."</p> <p>17 Do you see that?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. And the second subhead under</p> <p>20 that says, "Execute strategic</p> <p>21 pricing/volume matrix opportunities."</p> <p>22 Do you see that?</p> <p>23 A. That is correct.</p> <p>24 Q. What does that mean in</p>	<p style="text-align: right;">Page 90</p> <p>1 layman's terms?</p> <p>2 A. In layman's terms, that means</p> <p>3 where there are products that are in short</p> <p>4 supply, look for opportunities to have a</p> <p>5 price increase, capture extra value. Or</p> <p>6 products that have -- you know, we have</p> <p>7 less than the volume that we would have</p> <p>8 expected, to increase that volume.</p> <p>9 So if it's a four-player</p> <p>10 market, we want 25 percent market share.</p> <p>11 And if we'd only have 10 percent market</p> <p>12 share, it would be the strategic</p> <p>13 opportunity to capture the other 15 percent</p> <p>14 market share in a four-player market, was</p> <p>15 usually the goal.</p> <p>16 Q. Okay. Thank you.</p> <p>17 If you'd flip several pages</p> <p>18 back to what I'll call Page 15 -- so about</p> <p>19 three more pages back in that document --</p> <p>20 there's a slide that says "2012</p> <p>21 Accomplishments." It was about three</p> <p>22 slides behind what we were just looking at.</p> <p>23 It's entitled "2012 Accomplishments."</p> <p>24 A. The other way, it's ahead.</p>
<p style="text-align: right;">Page 91</p> <p>1 Got it.</p> <p>2 Q. All right. There are -- this,</p> <p>3 I presume, is information that would have</p> <p>4 been supplied, in some form or fashion,</p> <p>5 under your direction; it would have been</p> <p>6 information pertinent to your area?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. There's six bullets</p> <p>9 here listed under "2012 Accomplishments."</p> <p>10 Let me focus you on the third one. It says</p> <p>11 there, "Maximize price/volume matrix."</p> <p>12 And that's what we were just</p> <p>13 talking about a moment ago; right?</p> <p>14 A. Yes.</p> <p>15 Q. And one of the things that's</p> <p>16 indicated here: "Price increases included:</p> <p>17 Methylphenidate ER and Hydrocodone."</p> <p>18 Correct?</p> <p>19 A. That is correct.</p> <p>20 Q. All right. If you considered</p> <p>21 it to be a 2012 accomplishment that there</p> <p>22 was price increases on hydrocodone, would</p> <p>23 that have likely been because of supply</p> <p>24 shortages in the market?</p>	<p style="text-align: right;">Page 92</p> <p>1 MR. ERCOLE: Objection to form;</p> <p>2 calls for speculation.</p> <p>3 THE WITNESS: I don't believe</p> <p>4 that was the shortages. I believe that</p> <p>5 went through -- and I'm guessing now --</p> <p>6 we had something called a product</p> <p>7 rationalization group, and there were</p> <p>8 certain products -- and hydrocodone, if</p> <p>9 I'm not mistaken, at that time, was one</p> <p>10 of them. We were either breaking even</p> <p>11 or losing money on our dispensing or</p> <p>12 our distribution of hydrocodone. And</p> <p>13 the choice, at that point in time, was</p> <p>14 probably to take a price increase or</p> <p>15 get out of it.</p> <p>16 BY MR. KIEFFER:</p> <p>17 Q. And it looks like you took a</p> <p>18 price increase?</p> <p>19 A. Looks like we took a price</p> <p>20 increase.</p> <p>21 Q. And it sounds like that was a</p> <p>22 successful strategy, because it was listed</p> <p>23 as one of six accomplishments in 2012 on</p> <p>24 this slide; correct?</p>



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1 MR. ERCOLE: Objection to form.  
 2 THE WITNESS: I believe in 2012  
 3 we took a lot of price increases.  
 4 Those were two of the price increases  
 5 that were a success.  
 6 - - -  
 7 (Teva-Boyer No. 005 was marked for  
 8 identification.)  
 9 - - -  
 10 BY MR. KIEFFER:  
 11 Q. Sir, I just handed you a  
 12 document marked as Exhibit 5. It has a  
 13 number in the lower right-hand corner  
 14 TEVA\_MDL\_A\_09639501. It is an email string  
 15 that involves you, at least on what appears  
 16 to be the end of the string, at the top of  
 17 the first page of that exhibit.  
 18 Feel free to take a moment and  
 19 look through it. You don't have to -- I'm  
 20 not going to ask you about every little  
 21 line, but feel free to take a moment and  
 22 peruse it and then let me know. I've got a  
 23 couple of questions for you.  
 24 A. (Witness reviews document.)

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1 before I do that, I want to have an  
 2 understanding as to who some of these  
 3 people are.  
 4 About two-thirds of the way  
 5 down the page, it says, "FromSent," and it  
 6 says "pete@jnk."  
 7 Do you see that?  
 8 A. Yes.  
 9 Q. And "JNK" appears to reference  
 10 JNK Securities Corp.?  
 11 A. I have no idea.  
 12 Q. You have no idea who they are?  
 13 A. No.  
 14 Q. Not at all?  
 15 A. Not at all.  
 16 Q. Okay. Let me ask you here,  
 17 toward the very bottom of the page, in  
 18 boldface, it says, "This was an incoming  
 19 client request by a major player in these  
 20 names - so my presumption is that there is  
 21 legit fear of negative repercussions  
 22 hitting these opioid manufacturers as well  
 23 as publicly traded SNFs -- Got 15 minutes  
 24 to get in front of this?"

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1 Okay.  
 2 Q. All right. Let me just ask  
 3 you a few questions, sir.  
 4 The email from you at the top  
 5 of this string on Page -- first page of  
 6 Exhibit 5 is dated 10/22 of 2014, and it's  
 7 got your name @actavis.com; correct?  
 8 A. Yes.  
 9 Q. Did you consider yourself, at  
 10 the time, to be employed by Actavis or  
 11 Watson or --  
 12 A. Switched over to Actavis, so  
 13 I'm assuming it was Actavis Pharma.  
 14 Q. Okay. You appear to be  
 15 responding to an email, just a little bit  
 16 further down the page, from a Lisa  
 17 DeFrancesco, if I said that right?  
 18 A. Yes.  
 19 Q. Who was she?  
 20 A. Lisa was in charge of, at the  
 21 time, I believe, investor relations.  
 22 Q. Okay. And reading further on  
 23 down the page -- and I'll hit the  
 24 highlights I want to ask you about, but

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1 Do you see what I just read  
 2 there?  
 3 A. Yes.  
 4 Q. Then it goes on to state,  
 5 "Please let me know if you would like a  
 6 call."  
 7 And then beneath that, it  
 8 states, "On October -- On October 9, the  
 9 Medicare Payments Advisory Commission  
 10 (MedPAC) issued a research report about the  
 11 levels and extent of opioid prescription  
 12 use in all 50 states. The findings are  
 13 making their way around Washington policy  
 14 circles, including FDA regulators, CMS and  
 15 state medical boards."  
 16 "Topics of Discussion."  
 17 Do you see where I am?  
 18 A. Yes.  
 19 Q. Okay. And the first topic of  
 20 discussion and the first bullet point  
 21 states, "It appears approximately  
 22 10 percent of all opioid prescriptions are  
 23 for legitimate use as defined by extensive  
 24 peer-reviewed research. This primarily

<p style="text-align: right;">Page 97</p> <p>1 includes cancer patients and those at 2 end-of-life." 3 Do you see what I just read? 4 A. Yes. 5 Q. Okay. Before this email 6 string was forwarded to you, were you aware 7 that this Medicare Payments Advisory 8 Commission had apparently issued this 9 research report with some of these findings 10 that are referenced? 11 A. I've never heard of it. 12 Q. Okay. Upon receiving this 13 email string directed to you, did the 14 statements attributable to the research 15 report of this MedPAC group -- were they 16 any cause of concern to you? 17 MR. ERCOLE: Objection to the 18 form. 19 THE WITNESS: No. 1, I don't 20 remember ever getting it. 21 Knowing me, from an email 22 standpoint, when the first thing -- it 23 says, "You are aware of this escalating 24 opioid sitch snowballing," I would have</p>	<p style="text-align: right;">Page 98</p> <p>1 just responded right away, saying I 2 have never heard it. I wouldn't have 3 read through the rest of it, to be 4 fair. 5 BY MR. KIEFFER: 6 Q. I think you anticipated my 7 next question. 8 There's an email on the first 9 page from a Ben, who looks like Sun, S-U-N, 10 @chartwellip.com. 11 Do you know who that is? 12 A. No. 13 Q. No idea? 14 A. No. 15 Q. He states, "Lisa I got this 16 Opioid thing, would like to follow up if 17 possible. Thanks." 18 Do you see that? 19 A. Yes. 20 Q. And then it looks like she 21 forwards it on up to a group, including 22 you: "FYI - let me know if you know 23 anything about this." 24 Do you see that?</p>
<p style="text-align: right;">Page 99</p> <p>1 A. That is correct. 2 Q. And then it looks like you 3 responded, "Have not heard of anything 4 yesterday." 5 Am I correct? 6 A. Yeah. 7 Q. Okay. And just to be clear, 8 it's your testimony that when you 9 responded, "Have not heard of anything 10 yet," you likely did not read through the 11 email to see what the topic was? 12 A. That is correct. With the 13 amount of emails that I get every day, I've 14 told my team for years, if it's not in the 15 subject title or the first sentence, I'm 16 probably not reading the whole email. 17 Q. Okay. Fair enough. I 18 appreciate your candor. 19 So based on what you just told 20 us and your normal custom and practice, is 21 it likely that today is the first time 22 you've actually read these statements that 23 are attributable to a research report of 24 this MedPAC group?</p>	<p style="text-align: right;">Page 100</p> <p>1 A. That is correct. 2 Q. Okay. Including this first 3 topic of discussion, that according to the 4 MedPAC research report, it appeared that 5 approximately 10 percent of all opioid 6 prescriptions are for legitimate use; 7 right? 8 MR. ERCOLE: Objection to form. 9 THE WITNESS: That's what it 10 says. 11 BY MR. KIEFFER: 12 Q. Okay. Having now read that 13 today for the first time, if indeed this 14 Medicare Payments Advisory Commission, back 15 in 2014, issued a report stating that, 16 based on extensive peer-reviewed research, 17 approximately 10 percent of all opioid 18 prescriptions were for legitimate use, does 19 that cause you any concern as someone who 20 at the time was in the senior level -- 21 senior management level of an organization 22 that manufactured a lot of opioids? 23 MR. ERCOLE: Objection to form; 24 lack of foundation, calls for</p>

<p style="text-align: right;">Page 101</p> <p>1 speculation.</p> <p>2 THE WITNESS: I'm not involved</p> <p>3 in the research that they're talking</p> <p>4 about. I wouldn't believe it, but I</p> <p>5 have no way of saying yes or no as</p> <p>6 to -- to the accuracy of it.</p> <p>7 BY MR. KIEFFER:</p> <p>8 Q. Okay. So your immediate</p> <p>9 reaction is you don't believe it; true?</p> <p>10 A. No.</p> <p>11 Q. Correct?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. And whether you believe</p> <p>14 it or don't believe it, it doesn't sound</p> <p>15 like it's a concern --</p> <p>16 MR. ERCOLE: Objection to form.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. -- or would have been at the</p> <p>19 time?</p> <p>20 A. Not that it's not a --</p> <p>21 MR. ERCOLE: Hold on.</p> <p>22 Objection to form;</p> <p>23 mischaracterizes testimony, asked and</p> <p>24 answered.</p>	<p style="text-align: right;">Page 102</p> <p>1 THE WITNESS: Not that it's a</p> <p>2 concern or not a concern. I hadn't</p> <p>3 read it, so I can't react to it. I</p> <p>4 don't know the background of the</p> <p>5 research, how accurate it is or it</p> <p>6 isn't. I don't know what the outcome</p> <p>7 of that research was, whether others</p> <p>8 poked holes in it, that it was false or</p> <p>9 not false. I just don't know.</p> <p>10 BY MR. KIEFFER:</p> <p>11 Q. Okay. Fair enough.</p> <p>12 But your at least initial</p> <p>13 reaction, having read it today, is you</p> <p>14 don't tend to believe it?</p> <p>15 MR. ERCOLE: Objection to form.</p> <p>16 THE WITNESS: If you're asking</p> <p>17 me in my personal capacity, with not</p> <p>18 scientific knowledge of the results or</p> <p>19 how it was conducted, I would find it</p> <p>20 hard to believe that one in ten were</p> <p>21 legitimate.</p> <p>22 BY MR. KIEFFER:</p> <p>23 Q. Okay.</p> <p>24 MR. ERCOLE: I think we've been</p>
<p style="text-align: right;">Page 103</p> <p>1 going for about an hour and 20 minutes.</p> <p>2 Is now a good time to take a break?</p> <p>3 MR. KIEFFER: Sure, yeah.</p> <p>4 MR. ERCOLE: Keep it quick.</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 approximately 11:06 a.m. We're going</p> <p>7 off the record.</p> <p>8 (Recess taken from 11:06 a.m. to</p> <p>9 11:22 a.m.)</p> <p>10 THE VIDEOGRAPHER: We are back</p> <p>11 on the record. The time is</p> <p>12 approximately 11:22 a.m.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Mr. Boyer, we're back on the</p> <p>15 record after a break. Are you ready to</p> <p>16 proceed?</p> <p>17 A. Yes, I am.</p> <p>18 Q. I learned when we adjourned</p> <p>19 for the break, I guess, that we had a</p> <p>20 slight technical issue with one exhibit,</p> <p>21 having nothing to do with you. I think we</p> <p>22 resolved that. It is Exhibit 5. My</p> <p>23 document is 1623. I just want to get this</p> <p>24 up on the video screen and ask you one or</p>	<p style="text-align: right;">Page 104</p> <p>1 two quick questions just to make it clear</p> <p>2 on our video record what we were</p> <p>3 discussing, since the other one was too</p> <p>4 small to even see.</p> <p>5 This is the email string that</p> <p>6 appears to end with you at the top on</p> <p>7 October 22nd, 2014.</p> <p>8 That's your response to Lisa</p> <p>9 DeFrancesco; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. Okay. And the substance of</p> <p>12 it, that we were discussing shortly before</p> <p>13 the break, had to do with this apparent</p> <p>14 research report by the Medicare Payments</p> <p>15 Advisory Commission, or MedPAC, one of the</p> <p>16 findings of which, according to what's</p> <p>17 stated here, is that MedPAC had determined</p> <p>18 that it appeared that "approximately</p> <p>19 10 percent of all opioid prescriptions are</p> <p>20 for legitimate use as defined by extensive</p> <p>21 peer-reviewed research. This primarily</p> <p>22 includes cancer patients and those at</p> <p>23 end-of-life.</p> <p>24 You recall that discussion?</p>

1 A. Yes.  
2 Q. And this is the document we  
3 were discussing?  
4 A. That is correct.  
5 Q. Okay. Don't mean to be  
6 tedious, but having done this, you can  
7 probably understand that if we have to play  
8 this for the jury and they can't see what  
9 we're talking about, it can make it  
10 cumbersome.  
11 A. All good.  
12 Q. All right. Let's move on.  
13 Let me go back and ask you a question.  
14 You told us early on that you  
15 had given a lot of depositions before. You  
16 either said four or five dozen or five or  
17 six dozen.  
18 Was it five or six dozen?  
19 A. Probably about four or five  
20 dozen.  
21 Q. Okay. Four or five dozen.  
22 Did any of those involve the  
23 subject matter of opioids?  
24 A. I don't recall that any of

1 them were for opioids.  
2 Q. When is the most recent one?  
3 A. One was -- what product was it  
4 for?  
5 I did one a few months ago on  
6 a product. I just don't recall what it  
7 was. I've done so many on products. I've  
8 done them on other areas of litigation. I  
9 don't recall which one it was.  
10 Q. Okay. But as you sit here  
11 today, you don't recall giving testimony in  
12 any of those numerous other depositions  
13 about opioid medications?  
14 A. I don't believe so. I'm not  
15 positive.  
16 Q. Any in-court testimony that  
17 you gave, briefly, what was the subject  
18 matter of the, I think you said, two to  
19 three trials that you testified in?  
20 A. Yes. AWP and Medicaid.  
21 Q. And just for the sake of our  
22 record, "AWP" is "average wholesale price"?  
23 A. Yes.  
24 Q. Okay. All right. Thank you.

1 - - -  
2 (Teva-Boyer No. 006 was marked for  
3 identification.)  
4 - - -  
5 BY MR. KIEFFER:  
6 Q. Mr. Boyer, we have just handed  
7 you what we marked as Exhibit No. 6. That  
8 is a document that was produced to us by  
9 counsel for Teva with a number in the  
10 right-hand corner of TEVA\_MDL\_A\_09639483.  
11 This is also -- was produced to us in its  
12 native electronic format. This is also a  
13 document that was produced to us from your  
14 custodial emails.  
15 The first page of it is titled  
16 "US Generics, Operations Leadership Team  
17 Meeting, October 15th, 2014."  
18 Do you see that?  
19 A. Yes.  
20 Q. And would this have been at  
21 the time that your employer was going under  
22 the Actavis name?  
23 A. Yes, it would have been  
24 Actavis Pharma at the time.

1 Q. All right. What is an  
2 operations leadership team meeting, as it  
3 existed in October of 2014 at Actavis?  
4 A. I don't know. My guess is  
5 it's my direct reports.  
6 Q. Okay. Your direct reports?  
7 A. Yeah.  
8 Q. Okay. Generally -- and I --  
9 look, it doesn't say it on here; I'm not  
10 going to hold you to it -- but generally,  
11 from what functional areas? All  
12 operations?  
13 A. No, this would have -- I don't  
14 remember what the OLT was, but I'm assuming  
15 sales, marketing, pricing, contracts,  
16 customer service.  
17 I don't remember what the  
18 operational leadership team was at the  
19 time.  
20 Q. You would, from time to time,  
21 participate in these sorts of meetings?  
22 A. Yes.  
23 Q. Okay. Always or typically?  
24 A. Not always. Sometimes.

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<p>1 Q. Okay. Sometimes.</p> <p>2 A. Yeah.</p> <p>3 Q. All right. Fair enough.</p> <p>4 This is a fairly short</p> <p>5 document. I had numbered, because it</p> <p>6 wasn't numbered, as provided to us, the</p> <p>7 cover page as Page 1. And it appears to be</p> <p>8 about six pages long.</p> <p>9 If you turn to the fifth page,</p> <p>10 which is the next-to-the-last page -- the</p> <p>11 slide there says "Key Product Trends."</p> <p>12 Do you see where I am?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Certain of the products</p> <p>15 listed in the left-hand column are opioid</p> <p>16 medications, are they not?</p> <p>17 A. That is correct.</p> <p>18 Q. Which ones are?</p> <p>19 A. Oxycodone, hydrocodone --</p> <p>20 oxycodone APAP, hydrocodone APAP, oxycodone</p> <p>21 TR.</p> <p>22 Q. Okay. Very good.</p> <p>23 The next-to-the-left-hand</p> <p>24 column says -- it appears to be fourth</p>	<p>1 quarter forecast; is that the abbreviation?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. In dollars; right?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. So, for example,</p> <p>6 oxycodone APAP says 21.8. Would that be</p> <p>7 millions of dollars?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And the same for</p> <p>10 hydrocodone APAP and oxycodone TR, millions</p> <p>11 of dollars?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. Just to be clear, everything</p> <p>14 that's shown in the fourth quarter forecast</p> <p>15 column is stated in millions of dollars?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And was it typical for</p> <p>18 these operations leadership team meetings</p> <p>19 that the team would focus on some of the</p> <p>20 larger revenue contributors?</p> <p>21 MR. ERCOLE: Objection to form.</p> <p>22 THE WITNESS: No. I don't</p> <p>23 remember what the operational</p> <p>24 leadership team was. If you had a</p>
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<p>1 context of where this was pulled</p> <p>2 from -- there was an OLT that was my</p> <p>3 level, but it was for the CEO at the</p> <p>4 time, that created these, for a</p> <p>5 cross-functional organization; and this</p> <p>6 may have been a one-time that I gave a</p> <p>7 generic update. I don't know if it was</p> <p>8 that or it was with my own direct</p> <p>9 reports.</p> <p>10 BY MR. KIEFFER:</p> <p>11 Q. Fair enough.</p> <p>12 On the right-hand side, the</p> <p>13 far right-hand column, corresponding to</p> <p>14 hydrocodone APAP, there is a "Comments"</p> <p>15 column.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. It says, "Price Increase, CII</p> <p>19 Pipeline Fill."</p> <p>20 Do you see that?</p> <p>21 A. That is correct.</p> <p>22 Q. Okay. "Price increase" seems</p> <p>23 self-explanatory. Do you interpret that to</p> <p>24 mean that that particular product,</p>	<p>1 hydrocodone APAP, had recently undergone a</p> <p>2 price increase?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And then the phrase</p> <p>5 "CII Pipeline Fill" -- CII would appear to</p> <p>6 relate to the fact that this medication is</p> <p>7 a Schedule II controlled substance?</p> <p>8 A. That is correct.</p> <p>9 Q. Okay. What does the phrase</p> <p>10 "pipeline fill" mean?</p> <p>11 A. So if I am not mistaken, at</p> <p>12 this point in time, hydrocodone went from a</p> <p>13 CIII to a CII product. And that would have</p> <p>14 meant that the wholesalers and chains would</p> <p>15 have moved out or would have sold through</p> <p>16 their CIII products and moved them out of</p> <p>17 what a -- probably a control cage. And CII</p> <p>18 is required to be in a vault.</p> <p>19 So my gut tells me that this</p> <p>20 was us backfilling -- if they keep one week</p> <p>21 of inventory on hand or two weeks of</p> <p>22 inventory on hand, that we were pipeline --</p> <p>23 or backfilling what their traditional</p> <p>24 levels of on-hand inventory they would keep</p>



<p style="text-align: right;">Page 113</p> <p>1 to satisfy their customers.</p> <p>2 Q. Okay. With -- with the new --</p> <p>3 with the CII product?</p> <p>4 A. Right. You would have had a</p> <p>5 decrease in the CIII down to zero, and the</p> <p>6 CII would replace it at that point in time.</p> <p>7 Q. Okay. And with the change in</p> <p>8 controlled substance scheduling for</p> <p>9 hydrocodone APAP from a CIII to a CII, did</p> <p>10 that involve all hydrocodone-containing</p> <p>11 products?</p> <p>12 A. I believe the answer is yes.</p> <p>13 Q. Okay. And did it involve --</p> <p>14 "it" being the change in controlled</p> <p>15 substance scheduling of hydrocodone</p> <p>16 products from a CIII to a CII -- did it</p> <p>17 involve a formulation change in the</p> <p>18 product?</p> <p>19 A. That, I don't recall.</p> <p>20 Q. Okay. And when I said</p> <p>21 "formulation change," I should have said a</p> <p>22 formulation change as opposed to simply how</p> <p>23 it was scheduled, how it was classified.</p> <p>24 MR. ERCOLE: Objection to form.</p>	<p style="text-align: right;">Page 114</p> <p>1 THE WITNESS: I don't know the</p> <p>2 timing of changes. I don't know that</p> <p>3 there was a formulation change.</p> <p>4 There was a change in the</p> <p>5 amount of acetaminophen, or APAP, that</p> <p>6 was allowed to be in a product, and I</p> <p>7 don't remember the timing of the</p> <p>8 changing of the scheduling as well as</p> <p>9 the changing of -- it wouldn't be a</p> <p>10 formulation, but it would be a -- a</p> <p>11 different version of it that would be</p> <p>12 on the market.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Okay. Thank you.</p> <p>15 And the change in the</p> <p>16 acetaminophen content of hydrocodone APAP,</p> <p>17 that was not directly related to the</p> <p>18 rescheduling of that from being a CIII</p> <p>19 controlled substance to a CII controlled</p> <p>20 substance, that was done for other reasons;</p> <p>21 correct?</p> <p>22 A. I don't know the answer -- I</p> <p>23 don't know the timing of it. It was done</p> <p>24 for other reasons. I just don't know the</p>
<p style="text-align: right;">Page 115</p> <p>1 timing of it.</p> <p>2 Q. Fair enough. And timing may</p> <p>3 not be important for this question.</p> <p>4 A. Okay.</p> <p>5 Q. The reason why the</p> <p>6 acetaminophen content was changed was over</p> <p>7 a concern about liver toxicity; right?</p> <p>8 A. Correct.</p> <p>9 Q. Not how was it being</p> <p>10 classified and how was it being controlled</p> <p>11 as a controlled substance?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. If a product is</p> <p>14 reclassified from a CIII controlled</p> <p>15 substance to a CII controlled substance,</p> <p>16 there are certain additional controls that</p> <p>17 apply to it?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. One thing you mentioned</p> <p>20 is just how it is physically warehoused; I</p> <p>21 think you said in a cage or a vault?</p> <p>22 A. Cage versus a vault, yes.</p> <p>23 Q. Okay. What's the difference</p> <p>24 between the cage and the vault, in your --</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Just different levels of</p> <p>2 security.</p> <p>3 Q. Lower levels?</p> <p>4 A. Different levels.</p> <p>5 Q. Different levels. Thank you.</p> <p>6 There are also differences in</p> <p>7 who can prescribe a CIII controlled</p> <p>8 substance versus a CII controlled</p> <p>9 substance. Also true?</p> <p>10 A. Not familiar with the</p> <p>11 prescription end of it, as far as it being</p> <p>12 written as a script.</p> <p>13 Q. Not at all?</p> <p>14 A. I don't know about nurse</p> <p>15 practitioners or physicians' assistants or</p> <p>16 physicians by state or, you know,</p> <p>17 municipality. I know there are differences</p> <p>18 sometimes, but I really have no</p> <p>19 understanding of it.</p> <p>20 Q. Okay. Fair enough. So let me</p> <p>21 follow up on that.</p> <p>22 Without asking you about a</p> <p>23 specific state, if there are documents, for</p> <p>24 example, that Teva has produced in this</p>

<p style="text-align: right;">Page 117</p> <p>1 litigation that would suggest that when a  2 product like hydrocodone APAP was  3 reclassified from a CIII to a CII, that did  4 carry with it certain implications as to  5 who could prescribe it; and in some  6 circumstances, folks like physician's  7 assistants and nurse practitioners, who  8 formerly could write a script for the CIII  9 version, could no longer write a script for  10 the CII version.  11 You're familiar with that  12 general issue?  13 MR. ERCOLE: Objection to form;  14 vague, compound, calls for a legal  15 conclusion.  16 THE WITNESS: I'll take your  17 word for it. But I believe that  18 there's different states that have  19 different regulations, not just about  20 controlled substances. Whether it's  21 CII or CIII, some products are listed  22 as a controlled in one state; and in  23 another state, they're noncontrols.  24 So I believe there's</p>	<p style="text-align: right;">Page 118</p> <p>1 differences. I don't know the exact  2 answer that -- you know, to it, though.  3 BY MR. KIEFFER:  4 Q. Fair enough.  5 Again, in general terms, you  6 have an understanding that when a product  7 like hydrocodone APAP is reclassified from  8 a CIII controlled substance to a CII  9 controlled substance, that may have some  10 implications on who can prescribe the CII  11 version?  12 A. I would agree with that.  13 Q. And some of those implications  14 in some circumstances might translate to  15 fewer providers being able to write a  16 prescription for the CII version versus the  17 CIII version --  18 MR. ERCOLE: Objection to form.  19 BY MR. KIEFFER:  20 Q. -- because of different  21 controls?  22 MR. ERCOLE: Sorry -- I  23 apologize for interrupting you.  24 Objection to form.</p>
<p style="text-align: right;">Page 119</p> <p>1 THE WITNESS: Okay. I can't  2 tell you what the prescription writing  3 authority is or whether a nurse  4 practitioner or a physician assistant  5 can write or not write a control. I  6 didn't even know physicians' assistants  7 and nurse practitioners could write a  8 CIII, never mind a CII. So I can't  9 speak to them.  10 I'm just assuming that what you  11 are telling me is accurate, but I  12 really don't know the answer.  13 BY MR. KIEFFER:  14 Q. Okay. Let me shift gears, at  15 least for moment.  16 (Incidental comments off the  17 stenographic record.)  18 BY MR. KIEFFER:  19 Q. Let me shift gears for a  20 moment, Mr. Boyer.  21 During the time that you were  22 at Actavis, when the company went by that  23 name, the sales and marketing function or  24 department, whatever the proper term is,</p>	<p style="text-align: right;">Page 120</p> <p>1 reported up through you?  2 A. That is correct.  3 Q. Okay. There is a gentleman by  4 the name of David Myers who worked at  5 Actavis and now still works at Teva.  6 He was one of your reports;  7 correct?  8 A. At a point in time. He came  9 from the Actavis organization. So whenever  10 the transaction occurred, he came over and  11 reported -- not to me directly but to my  12 executive director or vice president of  13 marketing, at the time of that transaction.  14 Q. Okay. Fair enough.  15 And that individual is  16 Napoleon Clark?  17 A. That is correct.  18 Q. So Mr. Myers would be what you  19 might call an indirect report?  20 A. Right. Mr. Myers would have  21 gone from Actavis to Watson and then back  22 to Actavis.  23 Q. Okay. All right. Fair  24 enough.</p>

<p style="text-align: right;">Page 121</p> <p>1           You at least know the name, 2   remember who it was? 3           A. Yes. I know who he is. 4           Q. Okay. Fair enough. 5           - - - 6           (Teva-Boyer No. 007 was marked for 7           identification.) 8           - - - 9   BY MR. KIEFFER: 10          Q. Let me hand you what we've 11       marked as Exhibit No. 7. And this is a 12       document that was also marked in Mr. Myers' 13       deposition. I'm not going to spend a lot 14       of time on it, but I do have a couple of 15       questions for you. 16               And the Bates number, just for 17       our record, is Acquired_Actavis_01367234. 18       And these were internal Actavis documents 19       that were provided to us in this 20       litigation. 21               This is a PowerPoint, sir, 22       that provides an overview of the marketing 23       department, if you look on the first page 24       of it. There have been numbers inserted,</p>	<p style="text-align: right;">Page 122</p> <p>1       kind of in boldface, on the upper right. 2               Do you see the statement 3       "Marketing Department Overview"? 4               A. Yes. 5               Q. Okay. And if you would, take 6       a look at the second page, Page 2 of that 7       document. 8               A. Yep. 9               Q. That states, at the top, 10       "Marketing Goal-Maximizing Profit." 11               Do you see that? 12               A. Yes. 13               Q. As far as you're concerned, at 14       the time that the marketing and sales 15       department rolled up under your 16       supervision, that was indeed the goal? 17               A. I've never seen this document 18       before. I believe this was prior to the 19       Watson transaction of Actavis. 20               Q. Okay. And what is it that 21       leads you to believe that? 22               A. The orange Actavis symbol. 23       We -- our symbol was blue and green. 24               Q. Okay.</p>
<p style="text-align: right;">Page 123</p> <p>1           A. So when we changed over from 2       Watson to Actavis, we used a different -- a 3       different symbol. 4               Q. Okay. Fair enough. 5               Well, at the time that you 6       were at Actavis and the marketing and sales 7       function rolled up to you, was it true that 8       the goal of the marketing department was to 9       maximize profit? 10              A. I would agree with that, yes. 11              Q. Okay. There's a little kind 12       of hub-and-spoke graphic here, and I don't 13       want to spend a lot of time on it, but the 14       one at the lower left, at about the 15       7 o'clock position, says "Company 16       Promotion." 17               Do you see that? 18               A. Yes. 19               Q. And there are some 20       promotional-type materials further in this 21       PowerPoint that I may ask you about. 22               But as a general statement, a 23       company like Actavis, when you were in 24       charge of the marketing and sales function,</p>	<p style="text-align: right;">Page 124</p> <p>1       it did undertake certain promotional 2       activities with respect to its generic 3       products, they just may have been different 4       promotional activities than the kind that 5       happened on the branded side of the 6       organization; true? 7               MR. ERCOLE: Objection to form. 8               THE WITNESS: Almost zero, when 9       I was in charge of -- of the 10       Watson/Actavis organization. I didn't 11       believe in spending dollars on product 12       and/or company promotion, because I 13       didn't believe that we could influence 14       the procurement of buyers that way. 15               If we did company promotion, it 16       was to let them know that we were 17       investing in R&amp;D or that we had a great 18       supply chain or something along those 19       lines. But very little beyond that, 20       unlike the brand side of the business. 21               It was very different. 22       BY MR. KIEFFER: 23               Q. So no promotion at all when 24       you were in charge?</p>

<p style="text-align: right;">Page 125</p> <p>1 A. Almost zero.</p> <p>2 You'd have to show me my</p> <p>3 budgets, but I will show -- I will go</p> <p>4 through them and show you how little</p> <p>5 promotion we did of the company or the</p> <p>6 products --</p> <p>7 Q. And -- I'm sorry.</p> <p>8 A. -- if any.</p> <p>9 Q. Okay. And when you say you</p> <p>10 did little, if any, promotion of the</p> <p>11 company or the products, you're meaning the</p> <p>12 products across the whole product line, all</p> <p>13 the generics, not just opioids?</p> <p>14 A. Across everything, all</p> <p>15 generics.</p> <p>16 Q. Okay. So, for example, things</p> <p>17 like print advertising, internet</p> <p>18 advertising, recruitment of key opinion</p> <p>19 leaders, those were not things that were</p> <p>20 done when you were at Actavis and then</p> <p>21 later Teva, in charge of the marketing</p> <p>22 function?</p> <p>23 A. Not on the generic side of the</p> <p>24 business.</p>	<p style="text-align: right;">Page 126</p> <p>1 Q. Okay. Not at all?</p> <p>2 A. Not at all.</p> <p>3 Q. Didn't engage in any kind of</p> <p>4 cross-company -- meaning joint marketing</p> <p>5 and promotion efforts of generic</p> <p>6 products -- with other manufacturers of</p> <p>7 generics --</p> <p>8 MR. ERCOLE: Objection to form.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. KIEFFER:</p> <p>11 Q. -- to increase overall market</p> <p>12 demand?</p> <p>13 A. No.</p> <p>14 Q. The notion -- or the old</p> <p>15 phrase, a rising tide lifts all boats;</p> <p>16 right?</p> <p>17 A. No.</p> <p>18 Q. Never did that?</p> <p>19 A. No.</p> <p>20 Q. Okay. So if you turn to Page</p> <p>21 16 of Exhibit 7, there is a little slide</p> <p>22 that says, "Marketing Communications:</p> <p>23 Electronic."</p> <p>24 Do you see that?</p>
<p style="text-align: right;">Page 127</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Up top in the "From"</p> <p>3 line, it says it's from "Drug Store News."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. You know who Drug Store News</p> <p>7 is?</p> <p>8 A. Yes.</p> <p>9 Q. It's a big trade publication?</p> <p>10 A. One of the trade publications.</p> <p>11 Q. All right. I'll just</p> <p>12 represent to you, Mr. Myers testified that</p> <p>13 this was some electronic advertising that</p> <p>14 would have appeared in Drug Store News.</p> <p>15 A. Okay.</p> <p>16 Q. The particular ad to the right</p> <p>17 is captioned "Demand, meet supply." And</p> <p>18 it's for oxycodone hydrochloride tablets in</p> <p>19 15 -- blow that up -- in 15- and</p> <p>20 30-milligram strengths.</p> <p>21 My question to you is: Is it</p> <p>22 your testimony that, in the time you were</p> <p>23 at Actavis, you never approved advertising</p> <p>24 of this kind whatsoever?</p>	<p style="text-align: right;">Page 128</p> <p>1 MR. ERCOLE: Objection to form.</p> <p>2 THE WITNESS: If we did</p> <p>3 anything -- and you'd have to go back</p> <p>4 and ask either Napoleon or the</p> <p>5 marketing team -- it was either "now</p> <p>6 available" products or "coming soon"</p> <p>7 products, but really nothing that would</p> <p>8 say anything more than that.</p> <p>9 BY MR. KIEFFER:</p> <p>10 Q. Okay. You did mention, I</p> <p>11 think in a prior answer, that insofar as</p> <p>12 marketing or promotion during your time --</p> <p>13 A. Yeah.</p> <p>14 Q. -- running that side of the</p> <p>15 organization, that you might have</p> <p>16 undertaken some marketing or promotional</p> <p>17 activities that would focus on the nature</p> <p>18 of the company's supply chain?</p> <p>19 MR. ERCOLE: Objection to form;</p> <p>20 mischaracterizes testimony.</p> <p>21 BY MR. KIEFFER:</p> <p>22 Q. I don't want to</p> <p>23 mischaracterize your testimony.</p> <p>24 A. So what I would say is, is</p>

<p style="text-align: right;">Page 129</p> <p>1 that if we were doing corporate ads, there</p> <p>2 were ads that we did saying that we have</p> <p>3 one of the best service levels in the</p> <p>4 industry. There were ads saying that we</p> <p>5 had a very strong R&amp;D pipeline. So things</p> <p>6 of that nature.</p> <p>7 I could have -- you know, we</p> <p>8 did do some of those -- I just don't</p> <p>9 remember what points in time, whether it</p> <p>10 was Watson, it was Actavis, but we did do</p> <p>11 some of that. I just don't recall anything</p> <p>12 product-specific.</p> <p>13 Q. Okay. Any sort of email</p> <p>14 blasts that you recall?</p> <p>15 A. So email blasts that we would</p> <p>16 send out were "now available." In other</p> <p>17 words, we would send it out to wholesalers,</p> <p>18 distributors, chains, saying that this</p> <p>19 product is now approved and we are now</p> <p>20 shipping. So those type of initiatives we</p> <p>21 would do.</p> <p>22 We had a brand-to-generic</p> <p>23 guide, which gave the brand name and the</p> <p>24 generic name, so the pharmacist would know</p>	<p style="text-align: right;">Page 130</p> <p>1 the equivalents of certain products.</p> <p>2 Q. Okay.</p> <p>3 A. We also did a brochure that</p> <p>4 showed all the names of our products, and</p> <p>5 the color, shape and size of the tablet or</p> <p>6 capsule, as well the publicly listed</p> <p>7 prices -- wholesale acquisition cost or</p> <p>8 suggested wholesale price.</p> <p>9 But beyond that, I'm -- off</p> <p>10 the top of my head, I do not recall any</p> <p>11 real advertising or promotion, per se.</p> <p>12 Q. Okay. Let me ask you about a</p> <p>13 couple more things, and then I'm going to</p> <p>14 move on from this exhibit.</p> <p>15 If you turn to Page 12. Page</p> <p>16 12 is entitled "Marketing Communications:</p> <p>17 Corporate Ads."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And there are some specific</p> <p>21 products listed by name on the left-hand</p> <p>22 side.</p> <p>23 My only question is: Based on</p> <p>24 what you just told us, during your time</p>
<p style="text-align: right;">Page 131</p> <p>1 running sales and marketing function at</p> <p>2 Actavis and then later Teva, you do not</p> <p>3 recall specifically advertising any generic</p> <p>4 products?</p> <p>5 A. Not products like that, no.</p> <p>6 Q. By name?</p> <p>7 A. No. Not like that, no.</p> <p>8 Q. Okay. Similar question. If</p> <p>9 you turn to Page 13 -- actually, 13 and</p> <p>10 14 -- 13 says -- is captioned "Lyrical</p> <p>11 Sellsheets," and 14 is captioned</p> <p>12 "Sellsheets." Both of those appear to</p> <p>13 identify some specific products by name.</p> <p>14 During your time running</p> <p>15 marketing and sales at Actavis, and later</p> <p>16 Teva, it's your testimony you didn't</p> <p>17 undertake that sort of promotion?</p> <p>18 A. So let me speak for Watson and</p> <p>19 Actavis, when I controlled all of the</p> <p>20 marketing budgets more directly. The</p> <p>21 answer is, no, we really didn't do any of</p> <p>22 that.</p> <p>23 On the Teva side, again, not</p> <p>24 something that I would look at on a daily</p>	<p style="text-align: right;">Page 132</p> <p>1 basis. There may have been some of these</p> <p>2 things. I don't -- I don't know off the</p> <p>3 top of my head.</p> <p>4 Q. Okay. Page 15 references</p> <p>5 something called an "Advertorial."</p> <p>6 During your time at Watson,</p> <p>7 Actavis, and then later at Teva, did</p> <p>8 you-all ever do any advertorials focusing</p> <p>9 on specific products -- generic products?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Okay. How about targeted</p> <p>12 mailings and/or telemarketing campaigns to</p> <p>13 specific prescribing doctors advising them</p> <p>14 of a specific Watson, Actavis or Teva</p> <p>15 generic product? Was any of that done when</p> <p>16 you were managing the marketing and sales</p> <p>17 function for those organizations?</p> <p>18 MR. ERCOLE: Objection to form;</p> <p>19 compound, vague.</p> <p>20 THE WITNESS: I don't recall</p> <p>21 any product-specific, other than</p> <p>22 possibly methylphenidate ER.</p> <p>23 There was a -- there were two</p> <p>24 products on the market that were</p>



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1 changed from AB-rated, meaning they  
2 were equivalent to the brand product,  
3 to a BX rating, which means they were  
4 not equivalent to the brand product  
5 anymore. And we may have done some  
6 blasts to let the industry know that we  
7 had the authorized generic which was  
8 equivalent to the brand.

9 BY MR. KIEFFER:

10 Q. Okay. And what was that  
11 product again?

12 A. Methylphenidate ER.

13 Q. And what is that? What's it  
14 used for? What's the indication?

15 A. I think it's AD --

16 MR. ERCOLE: Hold on, hold on.  
17 Objection to form; multiple questions.

18 THE WITNESS: Methylphenidate  
19 ER, I believe it's ADHD, but I don't  
20 know exactly what the label says.

21 BY MR. KIEFFER:

22 Q. And you recall what the brand  
23 name equivalent of that is?

24 A. Concerta.

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1 Exhibit 8, which, for the record, bears a  
2 Teva Bates label in the lower right-hand  
3 corner of TEVA\_MDL\_A\_12698266. It is an  
4 email string. The first page is an email  
5 from Michelle.Osmian@tevapharm.com, to you  
6 and -- and others, dated 12/21 of '15. The  
7 subject is "US Commercial Integration  
8 Status Update," and then there's a  
9 reference to a weekly status update.

10 Do you see that?

11 A. Yes.

12 Q. And there are a couple pages  
13 attached to it.

14 A. Yep.

15 Q. Who is Michelle Osmian?

16 A. Michelle Osmian was the senior  
17 director of operations, which was customer  
18 service.

19 Q. And did she report to you  
20 directly or indirectly?

21 A. Well, at this point in time,  
22 Actavis had not been acquired by Teva as of  
23 yet.

24 Q. Okay.

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1 Q. Got it. Okay.

2 That's the only product that  
3 you recall in your time at Watson/Actavis,  
4 and later at Teva, where the company  
5 undertook generic product specific  
6 market --

7 A. Yeah, I think -- you need to  
8 ask the marketing people. But for Watson  
9 and Actavis, that's really the only one  
10 that I remember. Teva, I really have very  
11 little recollection of what they were  
12 spending -- spending money on, because I  
13 was too far removed as president and CEO.

14 Q. Okay. But even at Teva, the  
15 marketing and sales function still rolled  
16 up to you?

17 A. It did, yes.

18 Q. Okay.

19 - - -

20 (Teva-Boyer No. 008 was marked for  
21 identification.)

22 - - -

23 BY MR. KIEFFER:

24 Q. Mr. Boyer, I've handed you

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1 A. So I don't know exactly what  
2 the reporting lines were. I believe it was  
3 Christine Baeder. Brendan O'Grady was the  
4 president and CEO of the generic business  
5 for Teva at that point in time.

6 Q. Okay. So these were kind of  
7 joint communications that the two companies  
8 were having in the lead-up to the  
9 acquisition?

10 A. I would say this was an update  
11 that they copied -- they copied me, since I  
12 was going to be running the organization  
13 thereafter, giving me an update on the  
14 integration that was going on behind the  
15 scenes.

16 Q. Okay. And the integration was  
17 already ongoing, even though perhaps the  
18 deal wasn't official?

19 A. Preparation for integration.

20 Q. Preparation.

21 Would this also be what some  
22 might refer to as sort of a due diligence  
23 phase or more of a transitional operation?

24 MR. ERCOLE: Objection to form.

1 BY MR. KIEFFER:  
2 Q. You'd called it integration?  
3 A. I'd call it pre-integration,  
4 because you really can't share information  
5 until the deal is complete. So this is  
6 pre-integration work that's being done,  
7 either as standalone Teva or standalone  
8 Actavis, leading up to it.  
9 Q. All right. But you recall  
10 having some weekly status updates during  
11 that period of time?  
12 A. I didn't say weekly. I have  
13 no idea what I was getting. This happens  
14 to be one document that I got.  
15 Q. Okay. And I was just going by  
16 the title that says "weekly status update."  
17 A. Yeah. I don't remember  
18 getting weekly status updates, but it's  
19 possible.  
20 Q. You recall there were some  
21 integration-related communications that you  
22 received --  
23 A. Yeah --  
24 Q. -- during this period?

1 - Teva DEA Compliance has raised concerns  
2 of risk with existing Actavis SOMS process,  
3 regarding both support resources and  
4 elements of review process."  
5 Did you see what I just read?  
6 A. Yes.  
7 Q. Okay. Do you have an  
8 understanding as to the nature and extent  
9 of Teva DEA compliance, their -- the  
10 concerns they'd raised regarding Actavis'  
11 SOM process?  
12 MR. ERCOLE: Objection to form.  
13 THE WITNESS: No. Since it's  
14 Teva DEA compliance saying it, I'm  
15 assuming they were talking to Actavis  
16 DEA compliance directly and working  
17 with them on what would be our process  
18 that we would need to have in place for  
19 day one as a combined entity.  
20 BY MR. KIEFFER:  
21 Q. Okay. Do you know?  
22 A. What's that?  
23 Q. Do you know specifically what  
24 this was referring to?

1 A. -- I remember --  
2 MR. ERCOLE: Objection to form.  
3 THE WITNESS: Okay. I don't  
4 know exactly -- this one here has my  
5 name on it; I'm assuming I received it.  
6 BY MR. KIEFFER:  
7 Q. Sure.  
8 A. It doesn't look familiar.  
9 Q. Yeah. Okay. And I don't know  
10 if I said for our record, but this was  
11 furnished to us by counsel for Teva from  
12 your custodial email files.  
13 A. That's fine.  
14 Q. Take a look, if you would, at  
15 the last page of that document, which I  
16 think is the third page. There's a heading  
17 at the top. It looks like, Item 4, "Open  
18 issues, risks, and decisions required."  
19 Do you see that?  
20 A. Yes.  
21 Q. There are some bullets on the  
22 right-hand column. The third bullet point  
23 down states "SOMS," S-O-M-S, (Suspicious  
24 Order Monitoring for DEA Controlled items)

1 A. No, but it's definitely not  
2 referring to me.  
3 If it's Teva DEA compliance,  
4 then it's Teva DEA compliance talking to  
5 Actavis DEA compliance, because there  
6 wouldn't have been anybody else to talk to  
7 about it.  
8 Q. And your position was what --  
9 what at the time?  
10 A. I was the senior vice  
11 president of sales and marketing for  
12 Actavis.  
13 Q. Okay. And as senior vice  
14 president of sales and marketing for  
15 Actavis at the time, you would not have  
16 taken it upon yourself to ask any questions  
17 or inquire any further regarding whatever  
18 the apparent nature and extent of the  
19 concerns about risk were that Teva DEA  
20 compliance had raised with regard to the  
21 existing Actavis suspicious order  
22 monitoring process?  
23 MR. ERCOLE: Objection to form.  
24 THE WITNESS: Again, we had a

1 group within the organization that were  
 2 the authorities and the -- you know,  
 3 the expertise in DEA compliance within  
 4 Actavis, and I would have left it up to  
 5 the experts and their processes and  
 6 their decision-making to make the  
 7 appropriate decisions on behalf of the  
 8 Actavis organization, the same as I  
 9 would have expected out of Teva.

10 BY MR. KIEFFER:

11 Q. Okay. You recall we looked at  
 12 a document earlier, a PowerPoint that was  
 13 from your files -- I think it was dated  
 14 about two and a half years earlier -- that  
 15 indicated that Watson plus Actavis product  
 16 were the most diverted and receiving the  
 17 most scrutiny from DEA at least at that  
 18 time?

19 MR. ERCOLE: Objection to form.

20 THE WITNESS: Somebody's  
 21 opinion, I'm assuming, unless it's been  
 22 documented somewhere. I -- yes, I  
 23 remember seeing it.

24 BY MR. KIEFFER:

1 Q. Okay. So to the extent that,  
 2 a couple of years later, Teva, in this  
 3 pre-integration phase, is raising concerns  
 4 about suspicious order monitoring, again,  
 5 that is nothing that you would have  
 6 followed up on --

7 MR. ERCOLE: Objection --

8 BY MR. KIEFFER:

9 Q. -- period?

10 MR. ERCOLE: Objection to form;  
 11 foundation, argumentative.

12 THE WITNESS: No, what I would  
 13 say is that the Actavis DEA compliance  
 14 organization would have to assess --  
 15 because I don't know what "diverted"  
 16 means. I don't know if that's diverted  
 17 after it's been shipped to our  
 18 wholesalers and distributors; if that's  
 19 once it got to the chains, and there  
 20 were pharmacists dispensing it or  
 21 stealing it. You know, what you're  
 22 stating there is something that I don't  
 23 know enough about.

24 It would be part of our DEA

1 compliance team, and it would be their  
 2 responsibility to ensure the safety of  
 3 our supply chain and the effectiveness  
 4 of it. There were processes in place  
 5 that was their area of expertise. It  
 6 didn't roll up to commercial.

7 BY MR. KIEFFER:

8 Q. For the reasons you stated  
 9 before, in your words, there was a  
 10 separation of church and state, whereby  
 11 sales and commercial did not get involved  
 12 in the area of suspicious order monitoring,  
 13 and they left that to the DEA compliance  
 14 department?

15 MR. ERCOLE: Objection to form.

16 THE WITNESS: That's not what I  
 17 said. What I said was that you've got  
 18 two different parts of the organization  
 19 that have different responsibilities.  
 20 It's not that we didn't share  
 21 information. We gave them all of the  
 22 orders from our order management  
 23 system. They would get the access to  
 24 those and look at those orders, but

1 they got to make the decision  
 2 independent of the commercial  
 3 organization.

4 BY MR. KIEFFER:

5 Q. Okay. If there was -- in your  
 6 time at Watson and Actavis and later at  
 7 Teva, to your knowledge, did anybody from  
 8 your side of the organization, the  
 9 commercial side, ever reach out and call a  
 10 customer, any customer, to get some  
 11 explanation from the customer about an  
 12 order or orders that might have been  
 13 flagged as suspicious by the suspicious  
 14 order monitoring folks?

15 A. Absolutely.

16 Q. Okay. With what kind of  
 17 regularity did that happen?

18 MR. ERCOLE: Objection to form;  
 19 vague.

20 THE WITNESS: Mary Woods -- you  
 21 showed me an org chart that she had  
 22 order management -- suspicious order  
 23 management. The responsibility of that  
 24 team was to communicate with DEA

1 compliance and communicate with the  
2 customers to address any of those  
3 orders that would come in that didn't  
4 meet the criteria the DEA compliance  
5 had put in place.

6 So if there were issues, it was  
7 her responsibility to ask those  
8 questions, either with DEA compliance  
9 or on behalf of DEA compliance, and  
10 provide that information back to DEA  
11 compliance for their decision-making  
12 process.

13 BY MR. KIEFFER:

14 Q. Okay. And do you have any  
15 understanding as to the regularity with  
16 which DEA compliance actually spoke  
17 directly to the customers whose orders had  
18 been flagged as suspicious?

19 MR. ERCOLE: Same objection.

20 THE WITNESS: I don't know the  
21 regularity. I don't know what their  
22 protocols were. I know that they did  
23 have processes in place to assess all  
24 of our customers, but I couldn't speak

1 to the regularity. You'd have to ask  
2 the experts.

3 BY MR. KIEFFER:

4 Q. As a point of curiosity, if  
5 there is this separation of church and  
6 state, as you've described it, between the  
7 commercial side of the organization and the  
8 DEA compliance side of the organization,  
9 why not just have DEA compliance speak  
10 directly with any customers whose orders  
11 had been flagged as suspicious without  
12 involving someone from the commercial side?

13 A. I believe that they did. But  
14 you'd have to speak to them directly. But  
15 the customer service team was managing the  
16 entire customer relationship day in and day  
17 out, not just for suspicious orders but for  
18 all of our orders.

19 Remember, we had 3-, 4-, 500  
20 products. The majority of our products  
21 were noncontrolled substances, as far as  
22 number of SKUs and products. So they  
23 maintained those relationships with the  
24 customer day in and day out.

1 To say that the DEA didn't  
2 speak directly to customers is probably not  
3 an accurate assessment, but I'm not the one  
4 to ask, because I was not involved in it on  
5 a day-to-day basis.

6 Q. Okay. And who would be the  
7 one to ask?

8 A. I would ask -- in that case,  
9 it would have been Mary Woods, who was in  
10 charge of that department; or I would ask  
11 whoever you have as the head of the DEA  
12 compliance team at any point in time for  
13 those different entities.

14 Q. Okay. And are those issues  
15 issues that Ms. Baeder got involved in --  
16 with from time to time?

17 A. I don't know the answer to  
18 that.

19 Again, I was only there for  
20 about 15 months. I spent my 15 months at  
21 Teva working on integration. I was not  
22 involved in the weeds for 15 months.

23 Q. You were not involved -- I'm  
24 sorry -- "in the weeds"?

1 A. In the weeds of the  
2 organization.

3 Q. Sir, are you familiar with a  
4 group by the name of the Generic  
5 Pharmaceutical Association, or GPhA?

6 A. It doesn't exist anymore as  
7 that name, but yes.

8 Q. Okay. Does it go by a new  
9 name now?

10 A. Yes.

11 Q. What's the new name?

12 A. AAM, Affordable Accessible  
13 Medicines, or whatever it stands for now.

14 Q. Okay. I'm going to call it  
15 the Generic Pharmaceutical Association,  
16 since it apparently went by that name --

17 A. Okay.

18 Q. -- during the period I want to  
19 ask about.

20 That was -- is under a new  
21 name, an industry group?

22 A. Yes.

23 Q. An industry group made up  
24 predominantly or exclusively of generic

1 pharmaceutical manufacturers?  
 2 A. Yes.  
 3 Q. Okay. Advocacy group who  
 4 advocates for the interests of its members?  
 5 MR. ERCOLE: Objection to form.  
 6 THE WITNESS: I would assume  
 7 so.  
 8 BY MR. KIEFFER:  
 9 Q. Undertakes, from time to time,  
 10 lobbying?  
 11 A. You'd have to speak to the  
 12 group exactly what they do, but that's  
 13 fair.  
 14 Q. Have you attended meetings  
 15 where -- either hosted by or where there  
 16 were participants from the Generic  
 17 Pharmaceutical Association?  
 18 A. Yes.  
 19 Q. With some frequency?  
 20 A. There's usually about a  
 21 once-a-year meeting that I went to probably  
 22 three out of every four years.  
 23 Q. Okay. All right. Annual  
 24 meeting, national meeting, that kind of

1 thing?  
 2 A. Yes.  
 3 - - -  
 4 (Teva-Boyer No. 009 was marked for  
 5 identification.)  
 6 - - -  
 7 BY MR. KIEFFER:  
 8 Q. Okay. Let me hand you what  
 9 we've marked as Exhibit 9. And Exhibit 9  
 10 bears a Bates number in the lower  
 11 right-hand corner of ALLERGAN\_MDL\_01029477.  
 12 And it includes some materials, primarily a  
 13 PowerPoint presentation, behind the email  
 14 string. And this was also provided to us,  
 15 sir, from your electronic custodial files.  
 16 Take a minute and glance at  
 17 it, if you want. I'm only going to ask you  
 18 about a few things in here.  
 19 MR. ERCOLE: Take your time to  
 20 read the document.  
 21 THE WITNESS: Yeah. Well, as  
 22 he asks, I'll look. I don't recall the  
 23 document, so . . .  
 24 BY MR. KIEFFER:

1 Q. And I should have said it  
 2 before: On any question that I ask you, if  
 3 you want to pause and review the document  
 4 or different parts of it, you're welcome to  
 5 do that.  
 6 A. Okay.  
 7 Q. All right. The top email on  
 8 the first page of Exhibit 9 is from someone  
 9 by the name of Scott Soltis, and it's to  
 10 you and others, dated October 26th, 2012.  
 11 Who is Scott Soltis?  
 12 A. He may have been DEA  
 13 compliance. I don't remember his title.  
 14 Q. Okay. The subject is stated  
 15 as, "Hydrocodone Presentation Update Draft  
 16 10-25-12." And underneath that, it appears  
 17 to state  
 18 "HydrocodoneAdvisoryCommitteePresentation."  
 19 Do you see that?  
 20 A. Yes.  
 21 Q. And then further down, there's  
 22 the email that precedes it. The first  
 23 paragraph, after it states "All" -- it  
 24 says, "Attached is the Final version of the

1 slide deck for Monday's FDA Meeting."  
 2 Do you see that?  
 3 A. Yes.  
 4 Q. And that appears to be signed  
 5 by a gentleman named David Gaugh,  
 6 G-A-U-G-H, if I said that right, senior  
 7 vice president for sciences and regulatory  
 8 at the Generic Pharmaceutical Association.  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. Do you know who Mr. Gaugh is?  
 12 A. Yes, I do know who he is.  
 13 Q. Do you know if I'm pronouncing  
 14 his name right?  
 15 A. I don't.  
 16 Q. Okay. He's somebody that you  
 17 would see or periodically interact with at  
 18 some of these meetings?  
 19 A. No.  
 20 Q. Not really?  
 21 A. No.  
 22 Q. You just know who he is --  
 23 A. Yes.  
 24 Q. -- by virtue of being involved



1 with the organization?  
 2 A. Yes.  
 3 Q. All right. Okay. Turn a few  
 4 pages, if you would, to where this  
 5 PowerPoint begins. And the page number is  
 6 ALLERGAN\_MDL, the last three digits are  
 7 482, and that is entitled "Meeting of the  
 8 Drug Safety and Risk Management Advisory  
 9 Committee Meeting: Risks and benefits of  
 10 hydrocodone combination analgesic  
 11 products."  
 12 Do you see that?  
 13 A. Yes.  
 14 Q. Okay. The -- we had a little  
 15 discussion earlier about the fact that  
 16 there came a point in time where  
 17 hydrocodone-containing products were  
 18 rescheduled by the FDA from a Class III  
 19 controlled substance to a Class II  
 20 controlled substance.  
 21 Do you recall that general  
 22 discussion?  
 23 A. Yes.  
 24 Q. Let me represent to you, this

1 Do you see that?  
 2 A. Yes.  
 3 Q. I don't think I asked you  
 4 this, but when you were Watson and Actavis,  
 5 were they members of the Generic  
 6 Pharmaceutical Association?  
 7 A. Yes.  
 8 Q. And same with Teva?  
 9 A. Yes. There was a point in  
 10 time I think that Teva wasn't involved in  
 11 it, but yes, for the most part.  
 12 Q. And are the --  
 13 A. In fact, maybe even Watson or  
 14 Actavis wasn't involved for a period of  
 15 time.  
 16 Q. Okay.  
 17 A. In and out of it.  
 18 Q. In and out during your tenure?  
 19 A. Yeah.  
 20 Q. Okay. Was it just the  
 21 companies that were members of the Generic  
 22 Pharmaceutical Association, or were  
 23 individuals within the organization also  
 24 members?

1 presentation, if you were to look through  
 2 it, certainly appears to relate to the  
 3 period of time before -- while that  
 4 decision was being considered but before  
 5 that decision was being made. All right?  
 6 A. Okay.  
 7 MR. ERCOLE: Objection to form.  
 8 BY MR. KIEFFER:  
 9 Q. And it's dated, on the page we  
 10 were looking at, October 29th and 30th,  
 11 2012.  
 12 Let me just ask you a couple  
 13 of questions. Turn two pages further in  
 14 the document from that cover page. There  
 15 is a slide called "Generic Pharmaceutical  
 16 Association."  
 17 Do you see that?  
 18 A. Yep.  
 19 Q. And there's a statement that  
 20 says:  
 21 "Disclaimer:  
 22 "GPhA members are not experts  
 23 in the complexities of abuse and addiction  
 24 deterrence and prevention."

1 A. No. It's the company that's a  
 2 member.  
 3 Q. Company -- membership is just  
 4 companies?  
 5 A. Yes.  
 6 Q. Okay. So the disclaimer  
 7 states, "GPhA members are not experts in  
 8 the complexities of abuse and addiction  
 9 deterrence and prevention."  
 10 As far as you're concerned,  
 11 based on your personal experience in these  
 12 companies, Watson, Actavis and Teva, would  
 13 that be a true statement of those three  
 14 companies?  
 15 MR. ERCOLE: Objection to form;  
 16 compound, vague.  
 17 THE WITNESS: I would say from  
 18 a scientific, generic standpoint,  
 19 speaking on behalf of myself, I am  
 20 definitely not an expert in abuse and  
 21 addiction and deterrence and  
 22 prevention.  
 23 BY MR. KIEFFER:  
 24 Q. Okay. And in your time at

1 Watson and Actavis and later Teva, did you  
2 ever have cause to interact with or receive  
3 communications from anyone in the  
4 organization that you interpreted as having  
5 specialized expertise in the complexity of  
6 abuse and addiction deterrence and  
7 prevention?

8 MR. ERCOLE: Same objection.

9 THE WITNESS: No.

10 BY MR. KIEFFER:

11 Q. If you turn to the next page  
12 further back in that PowerPoint, it's also  
13 captioned "Generic Pharmaceutical  
14 Association." It states:

15 "Members we represent: 30  
16 manufacturers of generic drugs; produce  
17 approximately 85 percent of generic drugs  
18 marketed in the U.S."

19 Do you see that?

20 A. Yes.

21 Q. And then it says,  
22 "Manufacturers of hydrocodone-containing  
23 analgesic and cough products"?

24 A. Yes.

1 A. I don't recall the  
2 presentation. I think there was a rise in  
3 prescription use of the product. The abuse  
4 and misuse is not something that I would  
5 have been educated on to that extent.

6 Q. Okay. And I think you  
7 answered a couple of questions there. One  
8 had to do with the presentation, the other  
9 was more general. Let me focus on the more  
10 general.

11 And again, focusing on this  
12 time period, October of 2012, at that time,  
13 you would not have had information -- or  
14 would have formed an impression as to  
15 whether there was being observed a rise in  
16 abuse and misuse of hydrocodone-containing  
17 products; is that true?

18 MR. ERCOLE: Objection to form.

19 THE WITNESS: You're asking me,  
20 six or seven years ago, what I was  
21 thinking about at the time that a  
22 document was presented? I really don't  
23 know what I was thinking about it in  
24 October of 2012, regarding the subject.

1 Q. And Watson, Actavis and Teva  
2 produces those sorts of products; right?  
3 Correct?

4 MR. ERCOLE: Objection to form.

5 THE WITNESS: Watson did. Teva  
6 did. And I believe Actavis had some  
7 products as well, yes.

8 BY MR. KIEFFER:

9 Q. Okay. Turn another three  
10 pages further into that presentation. The  
11 last three digits in the lower right-hand  
12 corner are 487. The slide says "Summary."  
13 The first bullet point there states, "GPhA  
14 acknowledges the rise in abuse and misuse  
15 of hydrocodone-containing products."

16 Do you see that?

17 A. Yes.

18 Q. This is dated in October of  
19 2012.

20 Insofar as you were concerned,  
21 did you understand, in October of 2012,  
22 that there was being seen a rise in abuse  
23 and misuse of hydrocodone-containing  
24 products?

1 BY MR. KIEFFER:

2 Q. But let me ask it a little bit  
3 differently.

4 We talked, early in the  
5 deposition, about a determination by the  
6 Department of Health and Human Services in,  
7 I believe, October of 2007, that there was  
8 a public health emergency related to the  
9 opioid crisis.

10 Do you recall that discussion?

11 A. Yes.

12 Q. We went back and forth a  
13 little bit on some questions and answers.  
14 At one point, you said you thought  
15 certainly there was an opioid problem in  
16 the United States currently; right?

17 A. Correct, currently.

18 Q. When do you recall first  
19 forming the impression or the opinion that  
20 there was an opioid problem in the form of  
21 abuse or misuse in the United States?

22 A. I have no idea.

23 MR. ERCOLE: Objection to form.

24 THE WITNESS: Yeah, I have no

1 idea.  
 2 BY MR. KIEFFER:  
 3 Q. No idea?  
 4 A. Not a clue.  
 5 Q. Whether it was this year, last  
 6 year, five years ago, can't say?  
 7 A. No idea.  
 8 Q. The next bullet on this same  
 9 page, ending in 487, states, "There is no  
 10 evidence that a more restrictive schedule  
 11 curtails abuse and misuse of opioids, and  
 12 may simply shift abuse and misuse to other  
 13 licit and illicit drugs."  
 14 Do you see that?  
 15 A. Yes.  
 16 Q. Do you have any information  
 17 about that topic at all?  
 18 A. No. Just a guess.  
 19 Q. Is this -- well, this would  
 20 certainly -- this is certainly a statement,  
 21 the statement being there's no evidence  
 22 that a more restrictive schedule curtails  
 23 abuse and misuse of opioids -- that is a  
 24 statement being advanced by the Generic

1 David Gaugh, it looks like some of the  
 2 recipients have email addresses at  
 3 tevapharm.com, endo.com, amneal.com;  
 4 correct?  
 5 A. Yes.  
 6 Q. Amneal is your current  
 7 employer; right?  
 8 A. Yes.  
 9 Q. Okay. And he's enclosing this  
 10 final slide deck; right?  
 11 A. Yes.  
 12 Q. Okay. You don't have any  
 13 memory of this, you said; right?  
 14 A. No.  
 15 Q. Okay. You don't have any  
 16 memory of speaking up and saying, "Hey,  
 17 I've reviewed this slide deck, and I  
 18 disagree, or this doesn't state the  
 19 position of Teva. You're not speaking for  
 20 us, "anything like that?  
 21 MR. ERCOLE: Objection to form.  
 22 He wasn't even working at Teva at that  
 23 time. Asked and answered,  
 24 mischaracterizes testimony.

1 Pharmaceutical Association to the FDA;  
 2 correct?  
 3 MR. ERCOLE: Objection to form;  
 4 lack of foundation. The witness has  
 5 said he doesn't recall this document.  
 6 THE WITNESS: So two things  
 7 that I would say. No. 1 is, it's on  
 8 behalf of GPhA. There's 30  
 9 different -- I think it said 30  
 10 different members here. I can't tell  
 11 you that 30 members agreed unanimously  
 12 that they all agreed with the  
 13 statements or the document that you're  
 14 presenting here. I would have no way  
 15 of knowing that. I wasn't part of  
 16 putting that together, and I wasn't  
 17 part of any kind of a, you know,  
 18 collection of data and/or information  
 19 regarding it.  
 20 BY MR. KIEFFER:  
 21 Q. Okay. Fair enough.  
 22 If you flip back to the very  
 23 first page of Exhibit 9, which is the  
 24 email -- the one beneath Mr. Soltis's from

1 THE WITNESS: The people that  
 2 are on this copy besides me were more  
 3 involved in GPhA than I was.  
 4 BY MR. KIEFFER:  
 5 Q. Okay.  
 6 A. So I was being copied,  
 7 probably, as a nice-to-have cc.  
 8 You know, the names that  
 9 you've represented here as far as Amneal  
 10 and Endo and whoever else -- Teva -- that's  
 11 not all 30 companies, so I don't know how  
 12 this was created, who agreed, who  
 13 disagreed, who provided input, who didn't  
 14 provide input. It's impossible for me to  
 15 take and judge that.  
 16 Q. Okay. Did Watson and  
 17 Actavis -- when you were there in 2012,  
 18 they opposed the move of hydro -- the  
 19 reclassification of hydrocodone from a CIII  
 20 controlled substance to a CII controlled  
 21 substance, did they not?  
 22 MR. ERCOLE: Objection to form.  
 23 THE WITNESS: This is October  
 24 of '12. I don't remember the exact

<p style="text-align: right;">Page 165</p> <p>1 date of the combination. I think the 2 combination was before this. 3 I don't know. I don't know if 4 the people that are on behalf -- that 5 were speaking on behalf of the company, 6 that were in government affairs and 7 regulatory and in DEA compliance, I 8 don't know if they were part of the 9 team that were against it or not. 10 BY MR. KIEFFER: 11 Q. Okay. You don't know one way 12 or the other the position taken by the 13 company? 14 A. I think -- I think you'd need 15 to ask them. I don't know the answer. 16 Q. Yeah, no. I'm just asking 17 you. Do you know? 18 A. Yeah, I don't know the answer. 19 Q. No idea? 20 A. I don't. 21 Q. Okay. Sir, if you turn to the 22 next page, ending in 488, entitled, "Use of 23 Hydrocodone-Containing Products," and about 24 midway down the page, the second large</p>	<p style="text-align: right;">Page 166</p> <p>1 bullet states, "Hydrocodone-containing 2 analgesics, as a group, are the 3 most-prescribed pain medications in the 4 U.S." 5 My question to you is: Do you 6 know -- were you aware of that fact in 7 2012? 8 A. Yes. 9 Q. And as far as you're 10 concerned, that's accurate? 11 A. Yes. 12 Q. Okay. The statement beneath 13 that, "In 2008, hydrocodone-containing 14 analgesics were prescribed nearly 15 124 million times." 16 Do you see that? 17 A. Yes. 18 Q. I don't expect that, in 2012, 19 you had the number 124 million at your 20 fingertips; is that a fair assumption? 21 A. Oh, I would have no idea how 22 many prescriptions were sold overall. We 23 were looking at, at this point in time, 24 probably Watson or Activas alone, so I</p>
<p style="text-align: right;">Page 167</p> <p>1 wouldn't have known the overall number. 2 Q. Wouldn't surprise you if 3 that's what the number was? 4 A. Again, I -- 5 MR. ERCOLE: Objection. 6 Objection to form. 7 THE WITNESS: I have no 8 reference point. 9 BY MR. KIEFFER: 10 Q. Okay. If you turn several 11 more pages, to the page ending in 494, 12 entitled, "Potential Consequences: 13 Provision of Healthcare," the second bullet 14 there, sir, states, "There are fewer 15 prescribers of Schedule II products in the 16 healthcare system and there are limited 17 choices for moderately -- for moderate to 18 moderately severe pain that are Schedule II 19 or lower." 20 Do you see that? 21 A. "Schedule III or lower." 22 Q. I'm sorry. "Schedule III or 23 lower." 24 Do you see where I'm reading?</p>	<p style="text-align: right;">Page 168</p> <p>1 A. Yes. 2 Q. Do you agree with that 3 statement? 4 A. Again, not knowing enough 5 about the community of prescribers and not 6 knowing about the physicians' assistants 7 and nurse practitioners, like we spoke 8 about before, I didn't even realize that 9 physicians' assistants and nurse 10 practitioners could prescribe controlled 11 substances to begin with, so I probably 12 wouldn't have known about this at the time. 13 If they do -- if they are able 14 to prescribe controlled substances, then 15 going from a CIII to a CII, at this point 16 in time, for sure would be less, but I 17 don't know about that point in time. 18 Q. Okay. Fair enough. 19 Turn just a little bit 20 further, before we leave this document, to 21 the page that ends in 499. The topic of 22 the slide is "Generic Drug Sponsors' 23 Proposal." 24 The first bullet there states,</p>

<p style="text-align: right;">Page 169</p> <p>1 "Conduct additional studies to specifically</p> <p>2 assess abuse of hydrocodone-containing</p> <p>3 products."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Did you understand that at the</p> <p>7 time, the time being October 2012, that the</p> <p>8 Generic Pharmaceuticals Association was</p> <p>9 advocating that rather than changing</p> <p>10 hydrocodone-containing products from a CIII</p> <p>11 to a CII controlled substances, that</p> <p>12 instead they should be left as a CIII and</p> <p>13 additional studies should be conducted?</p> <p>14 MR. ERCOLE: Objection to form;</p> <p>15 lack of foundation, compound.</p> <p>16 You can answer if you can.</p> <p>17 THE WITNESS: I have no idea.</p> <p>18 BY MR. KIEFFER:</p> <p>19 Q. Would you agree, in general,</p> <p>20 with the statement that a company that</p> <p>21 makes controlled substances, like Teva and</p> <p>22 Actavis and Watson, should work in</p> <p>23 cooperation with entities like the DEA and</p> <p>24 the FDA to take all necessary and</p>	<p style="text-align: right;">Page 170</p> <p>1 reasonable steps to reduce the risk of</p> <p>2 diversion, abuse, overdose and death from</p> <p>3 controlled substances like opioids?</p> <p>4 MR. ERCOLE: Objection to form.</p> <p>5 THE WITNESS: I would agree</p> <p>6 that the manufacturers should work with</p> <p>7 DEA and FDA to have medications used</p> <p>8 properly versus improperly, yes.</p> <p>9 BY MR. KIEFFER:</p> <p>10 Q. Okay. And would you agree</p> <p>11 that a company like Watson and Actavis and</p> <p>12 Teva that make controlled substances should</p> <p>13 not view legitimate action by the DEA or</p> <p>14 the FDA that's designed to reduce the risk</p> <p>15 of diversion and abuse and overdose and</p> <p>16 death as some sort of negative thing or a</p> <p>17 threat to its business?</p> <p>18 MR. ERCOLE: Objection to form.</p> <p>19 THE WITNESS: No, I believe</p> <p>20 that the manufacturers may have a point</p> <p>21 of view and they should be allowed to</p> <p>22 express their point of view, if that's</p> <p>23 what you're asking.</p> <p>24 I don't know the factual basis</p>
<p style="text-align: right;">Page 171</p> <p>1 behind the DEA or FDA or the</p> <p>2 manufacturers', you know, expression of</p> <p>3 their -- of their opinions.</p> <p>4 BY MR. KIEFFER:</p> <p>5 Q. So was that a "no"?</p> <p>6 MR. ERCOLE: Objection to form;</p> <p>7 asked and answered.</p> <p>8 The question is confusing and</p> <p>9 misleading, but you can answer the</p> <p>10 question if you can.</p> <p>11 THE WITNESS: So I think that,</p> <p>12 you know, there's different -- the DEA</p> <p>13 and FDA have an opinion that they're</p> <p>14 entitled to. I think the manufacturers</p> <p>15 have an opinion they're entitled to.</p> <p>16 They don't necessarily have to agree.</p> <p>17 But per your previous question,</p> <p>18 they should be working together to do</p> <p>19 whatever they can to make sure</p> <p>20 medications are being used properly.</p> <p>21 That doesn't matter whether it's</p> <p>22 opioids or any other medication that we</p> <p>23 currently distribute and manufacture.</p> <p>24 BY MR. KIEFFER:</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. And I think we're close to</p> <p>2 being on the same page. I wasn't meaning</p> <p>3 to refer to a reasonable difference of</p> <p>4 opinion or action by the DEA or the FDA</p> <p>5 that might be out on the fringe.</p> <p>6 My question was framed in</p> <p>7 terms of legitimate action by the DEA or</p> <p>8 the FDA that's designed to reduce the risk</p> <p>9 of diversion, abuse, overdose and death.</p> <p>10 Would you agree that if it's</p> <p>11 legitimate action by those agencies, that</p> <p>12 companies like Actavis and Watson and Teva</p> <p>13 shouldn't view that as a threat to their</p> <p>14 business?</p> <p>15 MR. ERCOLE: Objection to form;</p> <p>16 calls for speculation. It's vague,</p> <p>17 asking for some hypothetical situation.</p> <p>18 THE WITNESS: What you</p> <p>19 determine to be legitimate based upon</p> <p>20 the FDA and DEA could -- may or may not</p> <p>21 be legitimate based upon somebody</p> <p>22 else's point of view. So I can't say</p> <p>23 that that's a legitimate reason for a</p> <p>24 decision-making process.</p>



<p style="text-align: right;">Page 173</p> <p>1 MR. KIEFFER: Okay.</p> <p>2 - - -</p> <p>3 (Teva-Boyer No. 010 was marked for</p> <p>4 identification.)</p> <p>5 - - -</p> <p>6 BY MR. KIEFFER:</p> <p>7 Q. Mr. Boyer, we just handed you</p> <p>8 what was marked as Exhibit 10. This is a</p> <p>9 document provided, again, from your</p> <p>10 custodial files by counsel for Teva. It</p> <p>11 bears Bates No. TEVA_MDL_A_13481730. It</p> <p>12 appears to be a PowerPoint or a slide deck,</p> <p>13 the first page of which is it captioned</p> <p>14 "Global Generic Medicines," presented by an</p> <p>15 individual who -- whose name I won't</p> <p>16 attempt to read at the moment, identified</p> <p>17 as president and CEO of Global Generic</p> <p>18 Medicines.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And the first name -- I'm</p> <p>22 going to take a stab at it. Dipankar?</p> <p>23 A. Yes.</p> <p>24 Q. Say the last name for me, if</p>	<p style="text-align: right;">Page 174</p> <p>1 you can.</p> <p>2 A. Bhattacharjee.</p> <p>3 Q. You know who that individual</p> <p>4 is?</p> <p>5 A. Yes.</p> <p>6 Q. Did you -- is it a man?</p> <p>7 A. Yes.</p> <p>8 Q. Did you report to him --</p> <p>9 A. Yes.</p> <p>10 Q. -- at one point in time?</p> <p>11 Okay. Then the next slide in</p> <p>12 the packet -- and these are numbered --</p> <p>13 Page 2 says "GGM," Global Generic</p> <p>14 Medicines, "Executive Summary."</p> <p>15 Do you see that?</p> <p>16 A. Yeah.</p> <p>17 MR. ERCOLE: Take your time to</p> <p>18 look through the document.</p> <p>19 THE WITNESS: Yes, that's fine.</p> <p>20 BY MR. KIEFFER:</p> <p>21 Q. Yeah. And I've only got a few</p> <p>22 questions. I promise you I'm not going to</p> <p>23 go through all these pages.</p> <p>24 Page 3, sir, of the document</p>
<p style="text-align: right;">Page 175</p> <p>1 has an organizational chart at the top.</p> <p>2 Identified as president and CEO of Global</p> <p>3 Generic Medicines is the gentleman that you</p> <p>4 just identified for us; right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And then there --</p> <p>7 beneath that, on the first line, there are</p> <p>8 various individuals identified, and your</p> <p>9 name appears under the heading "North</p> <p>10 America"?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And I'll represent</p> <p>13 to you, sir, this document is from 2007.</p> <p>14 Would this organizational</p> <p>15 chart pertain to the time when you were</p> <p>16 president and CEO of Teva North America?</p> <p>17 A. Yes.</p> <p>18 Q. Bear with me.</p> <p>19 Page 41, if you turn there,</p> <p>20 the slide is entitled "U.S. Generics."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And then flip to the very next</p> <p>24 page, if you would, Page 42. That's</p>	<p style="text-align: right;">Page 176</p> <p>1 entitled "U.S. Generics Markets Face</p> <p>2 Extreme Buyer Consolidation."</p> <p>3 Do you see that as well?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Before I go</p> <p>6 further, let me ask you: Do you know</p> <p>7 whether you would have had input into this</p> <p>8 presentation -- you or your staff?</p> <p>9 MR. ERCOLE: Again, take your</p> <p>10 time to look through the document.</p> <p>11 THE WITNESS: There's probably</p> <p>12 certain slides that we did have input</p> <p>13 into.</p> <p>14 BY MR. KIEFFER:</p> <p>15 Q. Okay. On the one we're</p> <p>16 looking at here, Page 42, that states "U.S.</p> <p>17 Generic Markets Face Extreme Buyer</p> <p>18 Consolidation," it states in the first</p> <p>19 bullet on the right, "Dominance of 3 major</p> <p>20 buyers for US products increasing pricing</p> <p>21 pressure."</p> <p>22 Did I read that correctly?</p> <p>23 A. "Price pressure," yes.</p> <p>24 Q. Thanks. You're reading it</p>

1 more closely than I am.

2 The three -- those three major  
3 buyers are identified there on the left:  
4 McKesson, AmerisourceBergen and  
5 CardinalHealth; correct?

6 A. No, those are -- those are  
7 some of the -- some of the buyers.

8 Q. Okay. Who are the three major  
9 buyers?

10 A. Well, this -- what this is  
11 basically saying is that McKesson and  
12 Walmart came together as ClarusONE.  
13 Walgreens, AmerisourceBergen, part of  
14 Rite Aid and Econdisc -- or at this point  
15 in time, it might have been all of Rite Aid  
16 and Econdisc, which was a combination of  
17 Express Scripts, Albertsons and Kroger --  
18 was a part of the light blue, which would  
19 have been WBAD, as you had mentioned  
20 before.

21 And then at the bottom would  
22 have been CVS and Cardinal and Target  
23 stores, which would have been Red Oak  
24 Sourcing, are the three main buyers.

1 Q. Thank you. I appreciate the  
2 explanation.

3 And so is it correct, in  
4 interpreting this chart -- and at the very  
5 top, there's a box that says "Other  
6 13 percent"; right?

7 A. Yes.

8 Q. So is it a correct  
9 interpretation of this chart -- strike  
10 that.

11 On the right, as I think you  
12 were alluding to, there's a heading that  
13 says "Major Moves in 2017"?

14 A. Yes.

15 Q. And did all of these events  
16 that you were just describing take place,  
17 more or less, in 2017?

18 A. On or about, probably.

19 Q. Okay. Fair enough.

20 So would it be a true  
21 statement that, as of some point in time in  
22 2017, 87 percent of the market for US  
23 generics was basically consolidated in  
24 these three major buyers and 13 percent in

1 all other buyers?

2 MR. ERCOLE: Object to form.

3 THE WITNESS: That was the  
4 estimate at that time, yes.

5 BY MR. KIEFFER:

6 Q. Fair enough.

7 And I think it's communicated  
8 in this slide, but the fact that 87 percent  
9 of the US market for generic drugs was  
10 consolidated among these three buyers, that  
11 fact gives those three buyers substantial  
12 negotiating leverage when it comes to the  
13 price for generic medications; correct?

14 MR. ERCOLE: Objection to form.

15 THE WITNESS: I would agree  
16 with that.

17 BY MR. KIEFFER:

18 Q. Would you agree that it --  
19 certainly in 2017, generic pharmaceutical  
20 makers, like Teva, faced extreme price  
21 pressure in the market for generic  
22 medications?

23 MR. ERCOLE: Same objection.

24 THE WITNESS: I think in --

1 in -- you know, if you look at the  
2 marketplace, it was pretty well  
3 documented that there was price erosion  
4 and pricing pressure in the generic  
5 industry.

6 BY MR. KIEFFER:

7 Q. Significant price pressure  
8 that had existed for some period of time  
9 but -- but got more extreme as time went  
10 on, leading up to 2011?

11 A. Consolidation led to  
12 additional price erosion.

13 Q. And in layman's terms, "price  
14 erosion" means pressure to either reduce  
15 prices or hold prices down or not implement  
16 increases, those sorts of things?

17 MR. ERCOLE: Objection to form.

18 THE WITNESS: I think there  
19 were still increases, but I think that  
20 the competition and the pricing overall  
21 for the market created additional  
22 erosion that may or may have not been  
23 as extreme as had been in the past.

24 BY MR. KIEFFER:

1 Q. Thank you.  
 2 Turn to, if you would, Page 55  
 3 of that document. There's a slide, and it  
 4 says, "Main items going into 2018 AOP."  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. What does "AOP" stand for?  
 8 A. I think it was "actual  
 9 operating plan."  
 10 Q. All right. There are two  
 11 subheadings. The first is "Opportunities  
 12 Beyond Financial Budget." The second is  
 13 "Identified threats."  
 14 Do you see that?  
 15 A. Yes.  
 16 Q. Okay. The third bullet under  
 17 "Identified threats" states, "Government  
 18 regulation of pricing and potential opioid  
 19 actions."  
 20 Do you see that?  
 21 A. That is correct.  
 22 Q. Okay. When you were at Teva  
 23 as president and CEO of North America  
 24 operations in 2017, did you understand that

1 others in Teva management viewed potential  
 2 opioid actions as a threat, looking into  
 3 2018?  
 4 MR. ERCOLE: I'm going to  
 5 object. I want -- I want to advise you  
 6 not to disclose any attorney-client  
 7 communications you may or may not --  
 8 you may have had at that time regarding  
 9 such information. You can answer the  
 10 question otherwise, but I'd advise you  
 11 not to disclose any attorney-client  
 12 communications you would have had.  
 13 THE WITNESS: Yeah, independent  
 14 of attorney-client communications, I  
 15 think there was also a concern, whether  
 16 it be opioids or any changes in the  
 17 government regulation of pricing and  
 18 products, that it would influence our  
 19 forecasts, no different than healthcare  
 20 reform changed our forecasts, sometimes  
 21 higher, sometimes lower, depending on  
 22 the product.  
 23 And when you're looking at main  
 24 items that are going into an actual

1 operating plan, you're looking for  
 2 potential opportunities and potential  
 3 risks that the organization should know  
 4 about as you go into those -- into  
 5 those budgeting years.  
 6 BY MR. KIEFFER:  
 7 Q. Understood.  
 8 And what is identified as a  
 9 threat here in the third bullet isn't  
 10 just -- there's a general statement about  
 11 govern regulation pricing and then a more  
 12 specific statement about potential opioid  
 13 actions; correct?  
 14 A. Yeah, not -- I don't know the  
 15 exact context of what this was written --  
 16 Q. Okay.  
 17 A. -- at that point in time.  
 18 Q. But as of 2017, given your  
 19 quite senior position in the North American  
 20 operations, you understood that Teva viewed  
 21 government action or potential government  
 22 action around opioids as a threat that it  
 23 had identified in 2017 looking forward into  
 24 2018?

1 MR. ERCOLE: Objection to form.  
 2 THE WITNESS: I would say any  
 3 government regulation is going to have  
 4 an impact and a threat to the business.  
 5 It could be a positive or a negative,  
 6 depending on what that -- you know,  
 7 what that change is. So that -- you  
 8 know, that's what I'm saying.  
 9 BY MR. KIEFFER:  
 10 Q. Okay. And I'm -- I'm truly  
 11 not meaning this as an argumentative  
 12 question. It's really a semantic question.  
 13 A. Yes.  
 14 Q. I don't typically see the word  
 15 "threat" used in a positive connotation.  
 16 Is it your testimony that what  
 17 is stated here on Page 55 of this exhibit  
 18 as an identified threat regarding potential  
 19 opioid actions might be communicating a  
 20 potential positive action for the company?  
 21 A. Well, if you reduce the amount  
 22 of opioids enough, chances are the prices  
 23 are going to go up much higher than they  
 24 are today, if I'm looking at, you know,

<p style="text-align: right;">Page 185</p> <p>1 just regular supply and demand.  2 So I see it listed as a threat  3 here. It could be looked upon either way.  4 And in my previous capacities, in looking  5 at these marketplaces, we did look at it  6 that way.  7 Q. Okay. And thanks for the  8 explanation. Again, I don't mean to  9 quarrel with you --  10 A. No, at this point in time,  11 they're saying it's a threat, but I don't  12 know what the context was or where it came  13 from, but it could be looked at in either  14 way.  15 Q. If the thinking was that there  16 might be increased government regulation  17 that would reduce the supply of opioids  18 and, in turn, lift the price, that might be  19 something that would cause folks to  20 identify potential opioid actions under the  21 "Opportunities" heading, not the "Threats"  22 heading; right?  23 MR. ERCOLE: Objection to form.  24 He's already testified he doesn't</p>	<p style="text-align: right;">Page 186</p> <p>1 understand the context.  2 THE WITNESS: I'm telling you  3 what -- the way I would look at it.  4 I don't know what the context  5 was here and who was making the  6 statement, because I look at it -- I  7 would look at it as an opportunity  8 and/or a threat, depending on what the  9 government regulation is.  10 BY MR. KIEFFER:  11 Q. Okay. I think I neglected to  12 ask, sir: A presentation such as we have  13 here, from Mr. -- and I'm sorry, would you  14 say his name again?  15 A. Dipankar Bhattacharjee.  16 Q. Okay. Thanks. I'll butcher  17 it if I say it.  18 Do you know who the audience  19 was for this?  20 A. I don't.  21 Q. Do you know if it was an  22 internal audience or an external audience?  23 A. I -- I don't.  24 Q. Okay.</p>
<p style="text-align: right;">Page 187</p> <p>1 A. I'm assuming internal, but I  2 don't know the answer.  3 Q. Okay. If we assume that this  4 gentleman who is listed on the first page  5 was the presenter or the primary presenter  6 of this material, it's a fairly safe  7 assumption that at least he viewed  8 potential government action around opioids  9 as a threat that had been identified in  10 2017 looking forward?  11 MR. ERCOLE: Objection to form;  12 improper assumption, calls for  13 speculation.  14 THE WITNESS: You'd have to ask  15 him, but it's in his presentation.  16 Want to take a break after this  17 one, just because it's so hot in here?  18 MR. KIEFFER: We can -- I was  19 going to go over two documents fairly  20 briefly and then suggest we take a  21 break for lunch, but if you want to  22 break now, we can. I don't have strong  23 feelings. It's hot.  24 THE WITNESS: Yeah. All right.</p>	<p style="text-align: right;">Page 188</p> <p>1 He got to take his jacket off, I  2 didn't.  3 MR. KIEFFER: Do you want to  4 take a break now?  5 THE WITNESS: Yeah, let's take  6 a break now. It's hot.  7 MR. KIEFFER: Sure. Fair  8 enough.  9 THE VIDEOGRAPHER: The time is  10 approximately 12:34 p.m. We're going  11 off the record.  12 - - -  13 (Luncheon recess taken from 12:34  14 p.m. to 1:14 p.m.)  15 THE VIDEOGRAPHER: We are back  16 on the record. The time is  17 approximately 1:14 p.m.  18 BY MR. KIEFFER:  19 Q. Mr. Boyer, welcome back.  20 We're back on the record after a lunch  21 break. Are you ready to proceed?  22 A. Yes, please.  23 - - -  24 (Teva-Boyer No. 011 was marked for</p>

1 identification.)  
2 - - -  
3 BY MR. KIEFFER:  
4 Q. All right. I've marked what  
5 I'm going to hand to you as Exhibit No. 8  
6 [sic]. Exhibit 8 bears a Bates number in  
7 the lower right-hand corner of  
8 TEVA\_MDL\_A\_12710598. And this is a  
9 PowerPoint that was provided to us by  
10 Teva's counsel from your electronic  
11 custodial files.  
12 I have just a couple of  
13 questions about it for you, whenever you're  
14 ready.  
15 A. Okay.  
16 Q. Okay?  
17 The first page of this is  
18 entitled "US Generics, Market Review,  
19 January 31, 2017."  
20 What's a market review?  
21 A. Just an update on the market.  
22 Q. And did you participate or  
23 attend things like a market review when you  
24 were at Teva?

1 some of that information for internal uses,  
2 just to educate our existing team.  
3 Q. Okay. Fair enough. Thank  
4 you.  
5 So this is dated  
6 January 31st, 2017. On Page 2, there's a  
7 slide that says, "What's Happened in the US  
8 Market Since Last Year?"  
9 Down the lower left-hand  
10 corner, in the box that says "Regulation,"  
11 it says, New FDA/DEA guidance on Controlled  
12 Substances."  
13 Do you see that?  
14 A. Yes.  
15 Q. Do you know specifically  
16 what's being referenced there?  
17 A. No.  
18 Q. Do you recall that, even into  
19 2017, there continued to be increasing FDA  
20 and DEA action and attention and scrutiny  
21 around opioid medications?  
22 MR. ERCOLE: Objection to form.  
23 THE WITNESS: I'm assuming  
24 there was discussion going on. I don't

1 A. No, I just think it's another  
2 name for update.  
3 Q. Who would an update like this  
4 typically be provided to? Folks internally  
5 or externally or both?  
6 A. Yeah, this is probably  
7 internal. It looks like most of these  
8 slides were lifted from one of the IMS  
9 IQVIA presentations and dropped into --  
10 dropped into this presentation.  
11 Q. Okay. And the presentation  
12 you just mention -- you said "IMS." And  
13 what was the other --  
14 A. IQVIA is the new name of IMS.  
15 Q. Got it. Okay.  
16 A. I-Q-V-I-A.  
17 Q. And would folks from Teva  
18 periodically then make presentations to  
19 IMS?  
20 A. No, no. This is just  
21 information that we lifted -- they did  
22 presentations to the industry.  
23 Q. I got it.  
24 A. And we used to take and lift

1 know the timelines of it. Again, this  
2 is not one of my own personal slides.  
3 BY MR. KIEFFER:  
4 Q. Okay. Do you know whether  
5 there are slides that you or folks in your  
6 area would have supplied to this  
7 presentation?  
8 MR. ERCOLE: Obviously take a  
9 look through the presentation.  
10 THE WITNESS: I am.  
11 Slide 8 probably is one of our  
12 slides.  
13 BY MR. KIEFFER:  
14 Q. Okay.  
15 A. Slide 11, Slide 12, Slide 13,  
16 Slide 14, Slide 15, Slide 16 and Slide 17.  
17 Q. Okay. You began -- an answer  
18 to that last question, you began at  
19 Slide 8. Turn to Slide 7, if you would.  
20 That one is entitled "Dynamic challenges to  
21 growth."  
22 Is that a slide that you  
23 believe would have been supplied by your  
24 group?



1 A. No.  
 2 MR. ERCOLE: Objection to the  
 3 form; asked and answered.  
 4 THE WITNESS: No. I said  
 5 that -- I believe this was from the  
 6 outside, but I've never seen this slide  
 7 before.  
 8 BY MR. KIEFFER:  
 9 Q. Okay. On the right-hand side,  
 10 there's a graphic, what appears to be kind  
 11 of a caution symbol. And under the main  
 12 heading of "Dynamic challenges to growth"  
 13 is the statement, "Headwinds from  
 14 hydrocodone rescheduling and opioid  
 15 prescribing scrutiny."  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. The hydrocodone rescheduling  
 19 would appear to relate to what we discussed  
 20 before, that hydrocodone-containing  
 21 products were rescheduled from a Class III  
 22 controlled substance to a Class II  
 23 controlled substance?  
 24 MR. ERCOLE: Objection to form.

1 He testified that he doesn't --  
 2 (Simultaneous cross-talk.)  
 3 MR. ERCOLE: Let me just  
 4 finish.  
 5 THE WITNESS: Sorry, sorry,  
 6 sorry.  
 7 MR. ERCOLE: -- that he  
 8 hasn't -- not aware of the context or  
 9 created this slide.  
 10 BY MR. KIEFFER:  
 11 Q. That's how you would interpret  
 12 it?  
 13 A. Yeah, I don't know the timing  
 14 of it, of when it was versus when the  
 15 statements were made here. Again, this is  
 16 not one of my slides.  
 17 Q. Okay. And then at the bottom  
 18 there, that same portion of the exhibit, it  
 19 says "3 million Rx lost to Teva."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. And "Rx" is "prescription"?  
 23 A. Yes.  
 24 Q. Okay. This would appear to be

1 communicating that -- what is described as  
 2 headwinds from the hydrocodone rescheduling  
 3 and opioid prescribing scrutiny had  
 4 resulted in a loss of 3 million  
 5 prescriptions to Teva.  
 6 Is that how you would  
 7 interpret this?  
 8 MR. ERCOLE: Again, objection  
 9 to form; lack of context, foundation.  
 10 THE WITNESS: I don't know  
 11 exactly where it came from. It's from  
 12 IMS, so I'm not sure what the time line  
 13 of it was, what it pertains to. I  
 14 really don't.  
 15 BY MR. KIEFFER:  
 16 Q. IMS is an outside group?  
 17 A. Yes.  
 18 Q. Why would IMS be reporting  
 19 3 million prescription -- a 3 million  
 20 prescription loss to Teva specifically?  
 21 A. Well, if -- if Teva was one of  
 22 the ones that they called out on it -- I  
 23 don't know if it was a presentation they  
 24 had done to Teva or -- I don't know where

1 this presentation came from, that they did.  
 2 It could have been at one of the NACDS or  
 3 HDA functions. I don't know what the  
 4 derivation of it is.  
 5 Q. It's not your testimony that  
 6 you're confident this slide did not  
 7 originate from someone within Teva, is it?  
 8 A. I don't think so. I've never  
 9 seen it before.  
 10 Q. And the opinion of someone, it  
 11 would appear, that the rescheduling of  
 12 hydrocodone as well what's described as  
 13 opioid prescribing certainly had resulted  
 14 in a loss of prescriptions to Teva?  
 15 MR. ERCOLE: Objection to form.  
 16 You're asking him to comment on whether  
 17 someone has an opinion on that?  
 18 THE WITNESS: Again, I don't  
 19 know what the context was.  
 20 BY MR. KIEFFER:  
 21 Q. Did you ever evaluate, in your  
 22 time at Teva, whether these sorts of  
 23 actions that are described here had  
 24 resulted in a measurable loss of

<p style="text-align: right;">Page 197</p> <p>1 prescriptions or sales or revenue to Teva?</p> <p>2 MR. ERCOLE: Objection; form.</p> <p>3 THE WITNESS: No. What my team</p> <p>4 did every single month was forecast</p> <p>5 across our entire book of business, 3-,</p> <p>6 4-, 500 products, depending on what</p> <p>7 point in time it was -- it wouldn't</p> <p>8 have just been hydrocodone; it would</p> <p>9 have been across the board -- our</p> <p>10 expected utilization of products in</p> <p>11 general, but not specific to</p> <p>12 hydrocodone or any of the other</p> <p>13 opioids.</p> <p>14 BY MR. KIEFFER:</p> <p>15 Q. Take a look, if you would, at</p> <p>16 Page 14 of that presentation. That, I</p> <p>17 think, is one of them you said appeared to</p> <p>18 originate with your group?</p> <p>19 A. Yes.</p> <p>20 Q. That's entitled "2017: Must</p> <p>21 Wins - New Product Launches."</p> <p>22 What does the phrase "must</p> <p>23 win" mean in this context?</p> <p>24 A. It was verbiage inside of</p>	<p style="text-align: right;">Page 198</p> <p>1 Teva, was -- in order for us to hit our</p> <p>2 annual operating plan, these are the things</p> <p>3 that we needed to execute on.</p> <p>4 Q. Okay.</p> <p>5 A. These are new product</p> <p>6 launches.</p> <p>7 Q. All right. And there are --</p> <p>8 there's -- the upper blue box says</p> <p>9 "Launches in the Annual Operating Plan</p> <p>10 (AOP)," and the bottom blue box says</p> <p>11 "Additional Launches (Potential upside)."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. In the upper portion there,</p> <p>15 "Launches in the Annual Operating Plan,"</p> <p>16 which of those medications are opioid</p> <p>17 medications?</p> <p>18 A. In the upper one?</p> <p>19 Q. Yeah, if any.</p> <p>20 A. I don't think any.</p> <p>21 Q. Okay. Let me turn your</p> <p>22 attention to the lower one. Let me ask you</p> <p>23 about buprenorphine/naloxone, thin film and</p> <p>24 MR tabs.</p>
<p style="text-align: right;">Page 199</p> <p>1 Do you see that?</p> <p>2 A. Yeah.</p> <p>3 Q. What are those products?</p> <p>4 A. It's a combination of</p> <p>5 buprenorphine and naloxone.</p> <p>6 Q. What are the indications?</p> <p>7 What are they are used for?</p> <p>8 A. I don't know the answer.</p> <p>9 Q. Used for opioid overdose</p> <p>10 addiction?</p> <p>11 A. I don't know the label on it.</p> <p>12 Q. Don't know at all?</p> <p>13 A. No.</p> <p>14 Q. No idea?</p> <p>15 A. I have an inkling, but I don't</p> <p>16 know exactly what the label is.</p> <p>17 Q. What's your inkling?</p> <p>18 A. That it's used as part of</p> <p>19 opioids. I don't know if it's for</p> <p>20 addiction or if it's prevention or -- but</p> <p>21 it has something to do with the opioid</p> <p>22 marketplace.</p> <p>23 - - -</p> <p>24 (Teva-Boyer No. 012 was marked for</p>	<p style="text-align: right;">Page 200</p> <p>1 identification.)</p> <p>2 - - -</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Hand you what we've marked as</p> <p>5 Exhibit No. 12. It's document 1651.</p> <p>6 Exhibit No. 12 bears a Bates</p> <p>7 number of TEVA_MDL_A_09644157. It is also</p> <p>8 a document that was provided to us from</p> <p>9 your native electronic files. It is a</p> <p>10 Teva, what appears to be, presentation</p> <p>11 dated 10/20 of '17.</p> <p>12 Let me just ask you a couple</p> <p>13 of questions about it if I can. Turn to</p> <p>14 Page 2 of that presentation, if you would,</p> <p>15 with the actual Page No. 2.</p> <p>16 A. Uh-huh.</p> <p>17 Q. Does this accurately reflect</p> <p>18 the reporting structure on your side of the</p> <p>19 organization in October of 2017?</p> <p>20 A. Yes, I would assume so.</p> <p>21 Q. Ms. Baeder's name came up</p> <p>22 before. She appears immediately below you,</p> <p>23 underneath the first line, entitled "Senior</p> <p>24 Vice President Customer &amp; Marketing</p>

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<p>1 Operations - US Generics."</p> <p>2 Was Ms. Baeder involved, in</p> <p>3 any form or fashion, on any sort of regular</p> <p>4 basis with the issue of suspicious order</p> <p>5 monitoring?</p> <p>6 A. It did roll up through her,</p> <p>7 through Michelle Osmian. What her</p> <p>8 day-to-day interaction with that was, I</p> <p>9 don't know the answer.</p> <p>10 Q. And how long was Michelle</p> <p>11 Osmian's day-to-day interaction with that</p> <p>12 particular subject area? What was that?</p> <p>13 A. Well, she had order</p> <p>14 management, I do believe. So I would</p> <p>15 expect that she would have had some</p> <p>16 involvement in that, but I don't know the</p> <p>17 specifics.</p> <p>18 Q. Okay. Take a look, if you</p> <p>19 would, at Page -- bear with me -- Page 6.</p> <p>20 Page 6 has a title that says</p> <p>21 "TRx Market Share - Rolling 12 months."</p> <p>22 What does the "TRx" present?</p> <p>23 A. Prescriptions -- total</p> <p>24 prescriptions.</p>	<p>1 Q. Total prescriptions. Okay. I</p> <p>2 knew the Rx part. So "T" is for "total"?</p> <p>3 A. Yes.</p> <p>4 Q. There's a box on the lower</p> <p>5 right, in gray, entitled "Market dynamics</p> <p>6 negatively affecting Teva share."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. The third bullet of the three</p> <p>10 states, "Hydrocodone rescheduling and</p> <p>11 scrutiny of opioids (3 million prescription</p> <p>12 loss to Teva)."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Similar statement to what we</p> <p>16 saw in the prior exhibit that we looked at;</p> <p>17 right?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Is this an internal</p> <p>20 Teva-created slide, or is it your testimony</p> <p>21 you think this came from an outside group?</p> <p>22 A. No, but I don't -- that</p> <p>23 statement may have been lifted from the</p> <p>24 other -- from the other document. I don't</p>
Page 203	Page 204
<p>1 know.</p> <p>2 But this looks like a draft,</p> <p>3 because it says "placeholder." So I'm not</p> <p>4 exactly sure if it was ever a presentation</p> <p>5 or a draft that was created internally, so</p> <p>6 it's hard to -- it's hard to say exactly</p> <p>7 what this was.</p> <p>8 Q. But in terms of the</p> <p>9 information that's depicted there, that</p> <p>10 looks to you to be an internally</p> <p>11 Teva-created slide?</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 THE WITNESS: The slide itself</p> <p>14 is -- looks internally created. The</p> <p>15 soundbites don't necessarily come</p> <p>16 directly from internally. That could</p> <p>17 have easily been lifted from IMS, like</p> <p>18 we did in a lot of cases.</p> <p>19 BY MR. KIEFFER:</p> <p>20 Q. You don't know one way or the</p> <p>21 other, I take it?</p> <p>22 A. No, I don't.</p> <p>23 - - -</p> <p>24 (Teva-Boyer No. 013 was marked for</p>	<p>1 identification.)</p> <p>2 - - -</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Handing you, sir, what we've</p> <p>5 marked as Exhibit 13. The first page of</p> <p>6 Exhibit 13 bears a Bates number of</p> <p>7 TEVA_MDL_A_12707620. It's an email with an</p> <p>8 attached document beginning with</p> <p>9 Page TEVA_MDL_A_12707621.</p> <p>10 Represent to you this came</p> <p>11 from your custodial file and were furnished</p> <p>12 by counsel. This is dated 12/5 of '16.</p> <p>13 The email is from Doug Sommerville with a</p> <p>14 cc to you.</p> <p>15 The bottom of the first page</p> <p>16 of that document, sir, is an email to a</p> <p>17 Doug Sommerville from Andrew -- I'm</p> <p>18 sorry -- carbon copying you from somebody</p> <p>19 with the first name of Itamar.</p> <p>20 Did I say that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Itamar Ben-Anat?</p> <p>23 A. Ben-Anat, yes.</p> <p>24 Q. Who is that individual?</p>

<p style="text-align: right;">Page 205</p> <p>1 A. I don't remember what his 2 title was, unless it's in here. He was -- 3 I don't know exactly what his title was. 4 He was like a catchall in the organization 5 to help put presentations together for the 6 organization. 7 Q. Do you know where he was 8 based? 9 A. He was in North Wales, 10 Pennsylvania. 11 Q. Okay. He states here in this 12 email, "Hi, Doug. I hope all is well. We 13 are currently updating the annual report 14 and I would need your update as to the CA 15 market." 16 Do you see that? 17 A. Yes. 18 Q. Does that mean Canadian, "CA"? 19 A. Yes. 20 Q. Okay. Let me ask you a couple 21 of questions about the attached document. 22 Second page of that, which 23 begin -- which has a page number ending in 24 621, just quickly take a look.</p>	<p style="text-align: right;">Page 206</p> <p>1 Do you recognize that as a 2 portion of the material that was being 3 revised to go into an annual report, at 4 least according to the cover email? 5 A. Assume so. 6 Q. Okay. Just want to ask you 7 about a couple of statements in there. 8 Page 625 -- and again, those are the last 9 three digits in the lower, right-hand 10 corner. There's a subhead at the bottom of 11 the page that says "United States." 12 Do you see that? 13 A. Yes. 14 Q. Okay. Second paragraph 15 states: "In the United States, we are 16 subject to intense competition in the 17 generic drug market from domestic and 18 international generic drug manufacturers, 19 brand-name pharmaceutical companies through 20 lifecycle management initiatives, 21 authorized generics, existing brand 22 equivalents and manufacturers of 23 therapeutically similar drugs." 24 Do you see what I just read?</p>
<p style="text-align: right;">Page 207</p> <p>1 A. Yes. 2 Q. Is that a true statement, as 3 far as you are concerned based upon your 4 role in the organization at that time? 5 A. Yes. 6 Q. If you turn to the next page, 7 which ends in 626, the second paragraph 8 from the top states, "In the United States, 9 our wholesale and retail selling efforts 10 are supported by advertising in 11 professional journals and on leading 12 pharmacy websites, as well as participating 13 in key medical and pharmaceutical 14 conferences. We continue to strengthen 15 customer awareness of the benefits of 16 generics through partnerships and digital 17 marketing programs." 18 Do you see that? 19 A. Yes. 20 Q. As far as you were concerned, 21 based upon your position in the company at 22 the time, was that a true statement? 23 A. It might be a true statement 24 for the brand part of our organization.</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. Okay. 2 A. It wouldn't -- it wouldn't be 3 for the generic part of the organization. 4 Q. Not at all? Would any part of 5 it be true for the generic part? 6 A. I could see the -- some of the 7 journal advertising -- with our "now 8 available" ads or "coming soon" ads, there 9 could have been some of that in the 10 professional journals. 11 And this is only for Teva; 12 correct? 13 Q. Correct. 14 A. Okay. Doubtful, pharmacy 15 websites. 16 Definitely not key medical and 17 pharmaceutical conferences, other than what 18 I would consider to be NACDS or HDA, where 19 we would use the same "coming soon," "now 20 available" or corporate positioning, such 21 as supply chain and R&amp;D capabilities. 22 And I would doubt any kind of 23 consumer awareness through partnerships and 24 digital marketing programs. That would not</p>

<p style="text-align: right;">Page 209</p> <p>1 be generics at all.</p> <p>2 Q. Now -- I'm sorry.</p> <p>3 A. That would not be the generic</p> <p>4 side of the business, no. There could be</p> <p>5 something on the brand side, and I'm</p> <p>6 assuming, based upon this being in there,</p> <p>7 that that was probably the case.</p> <p>8 Q. Okay.</p> <p>9 - - -</p> <p>10 (Teva-Boyer No. 014 was marked for</p> <p>11 identification.)</p> <p>12 - - -</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Hand you, sir, what we have</p> <p>15 marked as Exhibit 14. It's a document</p> <p>16 bearing a number in the lower, right-hand</p> <p>17 corner of TEVA_MDL_A_12678257. This was</p> <p>18 furnished to us from your custodial file.</p> <p>19 This is on Watson letterhead. It's a</p> <p>20 letter dated September 26th, 2011, to an</p> <p>21 individual at AmerisourceBergen Drug</p> <p>22 Corporation.</p> <p>23 Take just a moment to look at</p> <p>24 it, and then I have a question for you.</p>	<p style="text-align: right;">Page 210</p> <p>1 A. Okay.</p> <p>2 Q. This letter -- I'm sorry.</p> <p>3 Have you had a chance to look at it?</p> <p>4 A. Yes.</p> <p>5 Q. This letter states it's</p> <p>6 regarding loyalty rebate. It states:</p> <p>7 "Dear Ms. Patel:</p> <p>8 "Watson Pharma is pleased to</p> <p>9 offer the following rebate."</p> <p>10 And it says, "Loyalty Rebate,"</p> <p>11 and then it states, "Watson shall provide</p> <p>12 AmerisourceBergen with a one-time 2011</p> <p>13 loyalty rebate payment of \$250,000 for</p> <p>14 maintaining the following product in</p> <p>15 primary position through December 31,</p> <p>16 2011.</p> <p>17 "Hydrocodone/APAP."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Were you familiar with royalty</p> <p>21 rebates when you were at Watson?</p> <p>22 MR. RODRIGUEZ: This is Nick</p> <p>23 Rodriguez on behalf of</p> <p>24 AmerisourceBergen. I'm going to object</p>
<p style="text-align: right;">Page 211</p> <p>1 to the introduction of this exhibit.</p> <p>2 It's not clear to us that the witness</p> <p>3 has seen this before, and it wasn't</p> <p>4 provided to us in advance of this</p> <p>5 deposition.</p> <p>6 MR. KIEFFER: Noted.</p> <p>7 BY MR. KIEFFER:</p> <p>8 Q. Were you familiar, sir, with</p> <p>9 the topic of loyalty rebates when you were</p> <p>10 at Watson?</p> <p>11 A. We've got a lot of different</p> <p>12 rebates. I don't know if they were called</p> <p>13 loyalty rebates.</p> <p>14 I don't remember this one in</p> <p>15 particular, and I don't know what the</p> <p>16 context was leading up to this particular</p> <p>17 rebate being put in place.</p> <p>18 Q. Okay. You said there were a</p> <p>19 lot of different kinds of rebates. What</p> <p>20 were some of the different kinds of</p> <p>21 rebates?</p> <p>22 A. There's volume incentives.</p> <p>23 There's off-invoice. There's a whole host</p> <p>24 of different structured rebates, depending</p>	<p style="text-align: right;">Page 212</p> <p>1 on services provided or products and other.</p> <p>2 Q. Volume rebates, I think, as</p> <p>3 the name implies, are -- are typically</p> <p>4 determined in percentage terms, and moneys</p> <p>5 are rebated back to customers based upon</p> <p>6 the customer placing a certain sales</p> <p>7 volume?</p> <p>8 MR. ERCOLE: Objection to form.</p> <p>9 THE WITNESS: Usually not on a</p> <p>10 product-specific basis, on your entire</p> <p>11 book of business. So as we were</p> <p>12 launching more and more products and</p> <p>13 our business was growing, we were</p> <p>14 allowing a customer to participate in</p> <p>15 that growth through a volume rebate by</p> <p>16 awarding us some of those new products.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Okay. And based upon a</p> <p>19 reading of this particular exhibit, it</p> <p>20 appears that Watson was offering</p> <p>21 AmerisourceBergen, as of September 26,</p> <p>22 2011, \$250,000 to maintain Hydrocodone/APAP</p> <p>23 in primary position through December 31 of</p> <p>24 2011; correct?</p>



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1 MR. ERCOLE: Objection to form.  
2 The witness has already testified he's  
3 not aware of the context of this  
4 particular document.

5 THE WITNESS: Again, I don't  
6 know what the context was for.

7 BY MR. KIEFFER:

8 Q. The context?

9 A. The context of this. I don't  
10 know what led up to this rebate or why. I  
11 don't know what was transpiring in the  
12 marketplace. I don't know if we did a  
13 price increase. I don't know if we were  
14 losing market share to one of our  
15 competitors. I have no idea what led to  
16 this loyalty rebate.

17 Q. Fair enough. My question  
18 really doesn't pertain to context, though.  
19 My question really was just trying to make  
20 sure that we're clear on what the offer is.

21 The offer here, from Watson to  
22 AmerisourceBergen, on September 26th,  
23 2011, was: Watson would pay  
24 AmerisourceBergen \$250,000 if

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1 AmerisourceBergen maintained in a primary  
2 position, through December 31, 2011, the  
3 medication Hydrocodone/APAP; correct?

4 MR. ERCOLE: Objection to form.

5 MR. RODRIGUEZ: Again, this is  
6 Nicholas Rodriguez. I'm going to  
7 object, again, to this entire line of  
8 questioning for the same basis that I  
9 raised before. Just want to preserve  
10 the objection.

11 MR. ERCOLE: Sure. And we  
12 object that the witness has testified  
13 he's not familiar with the document.

14 THE WITNESS: I can only say  
15 that's what the document says.

16 BY MR. KIEFFER:

17 Q. That's how you'd interpret it;  
18 right?

19 MR. ERCOLE: Same objection.

20 THE WITNESS: I don't know what  
21 the context of this rebate is. The  
22 fact that they were offering a rebate  
23 on it, I'm assuming you're telling me  
24 that's what it is, but I don't know

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1 exactly what it was for.

2 BY MR. KIEFFER:

3 Q. I'm just telling you what the  
4 document says, I'm not asking you about the  
5 context.

6 A. And I'm just telling you, I  
7 agree with what the document says.

8 Q. You do?

9 A. That's what the document says,  
10 but I don't know what that means. I don't  
11 know what the content of that means.

12 MR. RODRIGUEZ: This is Nick  
13 Rodriguez. It's clear that the witness  
14 hasn't seen this, and this wasn't  
15 provided to us in anticipation of this  
16 deposition. And so, again, we're  
17 objecting to the use of this exhibit.

18 MR. ERCOLE: I'd request that  
19 you let the witness finish his answer  
20 before you start speaking.

21 MR. KIEFFER: Just trying to  
22 move it along. No, I get it.

23 BY MR. KIEFFER:

24 Q. Sir, what does it mean to

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1 maintain a product in primary position at a  
2 company -- at a wholesaler like  
3 AmerisourceBergen?

4 MR. ERCOLE: Objection to form.

5 THE WITNESS: I would assume  
6 that they would not dual-award the  
7 product.

8 BY MR. KIEFFER:

9 Q. "Dual-award the product"  
10 meaning they would keep -- in this  
11 particular instance, they would keep the  
12 Watson Hydrocodone/APAP in their formulary  
13 and that they would use the Watson product  
14 to fill orders from versus Watson's and  
15 someone else's; right?

16 MR. ERCOLE: Objection; form.

17 THE WITNESS: What's the date  
18 of this? Yes, because this would have  
19 been a CIII at that time, that is  
20 correct.

21 BY MR. KIEFFER:

22 Q. Okay. So this phrase about  
23 maintaining a product in primary position,  
24 incentives to a customer -- in this

<p style="text-align: right;">Page 217</p> <p>1 instance, AmerisourceBergen -- to maintain</p> <p>2 a product in primary position is one way</p> <p>3 that Watson can protect its market share or</p> <p>4 increase its market share for a particular</p> <p>5 product?</p> <p>6 MR. ERCOLE: Objection to form.</p> <p>7 THE WITNESS: In this</p> <p>8 particular instance, that's what it</p> <p>9 looks like. Not very customary, but it</p> <p>10 has been done.</p> <p>11 - - -</p> <p>12 (Teva-Boyer No. 015 was marked for</p> <p>13 identification.)</p> <p>14 - - -</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. Sir, I've just handed you as</p> <p>17 Exhibit No. 15 an email string. It bears a</p> <p>18 Bates number in the lower, right-hand</p> <p>19 corner of Acquired_Actavis_02290885. At</p> <p>20 the top of the first page, there is an</p> <p>21 email from David Myers to you and Napoleon</p> <p>22 Clark dated 3/27 of '13.</p> <p>23 Do you see what I'm referring</p> <p>24 to?</p>	<p style="text-align: right;">Page 218</p> <p>1 A. Yes.</p> <p>2 Q. And the subject is "Bu/Na</p> <p>3 Promotional Outreach Overview."</p> <p>4 Do you see that?</p> <p>5 A. Yup.</p> <p>6 Q. And he states in the first</p> <p>7 paragraph, "I wanted to provide an update</p> <p>8 on the programs we are currently performing</p> <p>9 and those we are considering in support of</p> <p>10 our buprenorphine/naloxone sales effort."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. The first is a</p> <p>14 joint promotion with Amneal. Do you see</p> <p>15 that as well?</p> <p>16 A. Yes.</p> <p>17 Q. And then underneath that, it</p> <p>18 indicates email and fax blasts to</p> <p>19 "DATA 2000 physicians"; correct?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Do you know what DATA 2000</p> <p>22 physicians are?</p> <p>23 A. No.</p> <p>24 Q. Then there's a subhead that</p>
<p style="text-align: right;">Page 219</p> <p>1 says "Actavis-sponsored programs."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. It states, "A press release</p> <p>5 was emailed along with a product picture to</p> <p>6 the following publications for inclusion in</p> <p>7 their new product sections," and then there</p> <p>8 is a list of various publications that</p> <p>9 appear beneath that; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then there is another</p> <p>12 subhead that says "Programs in-development</p> <p>13 (or being considered)."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. An email blast to 294,000</p> <p>17 pharmacy professionals and a budget amount</p> <p>18 there of \$10,000; correct?</p> <p>19 A. Yes.</p> <p>20 Q. A printed mailer included in</p> <p>21 PDQ Pharmacist's Flash Co-op Mailer that</p> <p>22 reaches 70,000 retail pharmacies, and a</p> <p>23 budget attached to that as well; right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Direct mail using 9x12 clear</p> <p>2 poly mailer reaching 1,000 high-prescribers</p> <p>3 of Suboxone, with a budget attached to</p> <p>4 that.</p> <p>5 Do you see that as well?</p> <p>6 A. Yes.</p> <p>7 Q. And an email follow-up</p> <p>8 broadcast to high-prescribers who received</p> <p>9 the direct mail piece, and a budget number</p> <p>10 attached to that as well; correct?</p> <p>11 A. That's correct.</p> <p>12 Q. A telemarketing campaign</p> <p>13 focused on high-prescribing physicians,</p> <p>14 with a cost to be determined.</p> <p>15 That's stated there as well?</p> <p>16 A. Yes.</p> <p>17 Q. And then Catalina Health</p> <p>18 direct-to-patient marketing campaign</p> <p>19 targeting patients who received</p> <p>20 Suboxone-brand Bu/Na, cost to be</p> <p>21 determined.</p> <p>22 Right? Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And in that last paragraph</p>

<p style="text-align: right;">Page 221</p> <p>1 before Mr. Myers -- and we established</p> <p>2 earlier you recall Mr. Myers from the time</p> <p>3 when you were with the Actavis organization</p> <p>4 and then later at Teva?</p> <p>5 A. Yes.</p> <p>6 Q. Next-to-last paragraph,</p> <p>7 Mr. Myers states, "As you can see, we are</p> <p>8 moving full steam ahead on maximizing the</p> <p>9 value of Buprenorphine Naloxone. Please</p> <p>10 give me a call if you'd like to discuss."</p> <p>11 Correct?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, this product</p> <p>14 that he is referring to --</p> <p>15 buprenorphine/naloxone -- that is a generic</p> <p>16 product; correct?</p> <p>17 A. That is correct.</p> <p>18 Q. And what he describes in his</p> <p>19 email are significant and fairly broad</p> <p>20 marketing and promotional efforts directed</p> <p>21 to that specific generic product; also</p> <p>22 correct?</p> <p>23 MR. ERCOLE: Objection to form;</p> <p>24 improper characterization.</p>	<p style="text-align: right;">Page 222</p> <p>1 THE WITNESS: I don't know</p> <p>2 exactly what he was doing here. I</p> <p>3 don't remember if it was ever even</p> <p>4 implemented.</p> <p>5 What happened with</p> <p>6 buprenorphine/naloxone was we had</p> <p>7 launched a tablet or a capsule, and the</p> <p>8 brand company, if I'm not mistaken, had</p> <p>9 moved most of the market to the thin</p> <p>10 film at a much higher price than the</p> <p>11 generic version of the tablet. And I</p> <p>12 remember them looking for a way to have</p> <p>13 physicians use the oral solid versus</p> <p>14 using the thin film.</p> <p>15 I don't know if they've ever --</p> <p>16 they ever implemented anything other</p> <p>17 than the original awareness.</p> <p>18 BY MR. KIEFFER:</p> <p>19 Q. Fair enough. And I appreciate</p> <p>20 the detail. My question was just perhaps a</p> <p>21 little more fundamental.</p> <p>22 Regardless of the reasons</p> <p>23 why --</p> <p>24 A. Yeah.</p>
<p style="text-align: right;">Page 223</p> <p>1 Q. -- regardless of what was</p> <p>2 ultimately done, what Mr. Myers is</p> <p>3 describing here represents marketing and</p> <p>4 promotion around a generic product, No. 1;</p> <p>5 true?</p> <p>6 MR. ERCOLE: Objection to form.</p> <p>7 THE WITNESS: I would agree</p> <p>8 that that would be -- you know, it's</p> <p>9 not features and benefits; it's an</p> <p>10 awareness campaign. But if you wanted</p> <p>11 to call that marketing promotion, I</p> <p>12 think you could, yes.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. And the various vehicles or</p> <p>15 channels that he is describing are pretty</p> <p>16 broad here; also true?</p> <p>17 MR. ERCOLE: Objection to form.</p> <p>18 THE WITNESS: It's an</p> <p>19 awareness -- what he's looking at is an</p> <p>20 awareness campaign. How you -- it's</p> <p>21 not an expensive campaign by any</p> <p>22 stretch of the imagination, but it's an</p> <p>23 awareness campaign to -- you know, to</p> <p>24 different healthcare professionals.</p>	<p style="text-align: right;">Page 224</p> <p>1 BY MR. KIEFFER:</p> <p>2 Q. And regardless of the</p> <p>3 nomenclature we use, the end goal of this</p> <p>4 awareness campaign was to drive sales of</p> <p>5 this particular buprenorphine/naloxone</p> <p>6 product; correct?</p> <p>7 A. I think the intent was to make</p> <p>8 physicians and others, if it did go to</p> <p>9 market, aware that there was a tablet and</p> <p>10 capsule available versus the higher-priced</p> <p>11 thin film version of the product.</p> <p>12 Q. So that they would hopefully</p> <p>13 buy the tablet/capsule version and thereby</p> <p>14 increase sales and maximize the value of</p> <p>15 the product?</p> <p>16 MR. ERCOLE: Objection to form.</p> <p>17 THE WITNESS: No. This would</p> <p>18 be for physicians to be aware that</p> <p>19 instead of writing for the thin film</p> <p>20 that they were currently writing for,</p> <p>21 that was costing both the patient and</p> <p>22 the healthcare insurance companies more</p> <p>23 money, that there was a generic</p> <p>24 alternative available to the capsule</p>

<p style="text-align: right;">Page 225</p> <p>1 and tablet; and that if they were going</p> <p>2 to write for buprenorphine/naloxone,</p> <p>3 they would serve their patients well,</p> <p>4 as well as the cost of the healthcare,</p> <p>5 to write for the tablet or capsule</p> <p>6 versus the thin film.</p> <p>7 BY MR. KIEFFER:</p> <p>8 Q. So it's your testimony this</p> <p>9 email from Mr. Myers is not describing</p> <p>10 activities that are being undertaken or are</p> <p>11 being contemplated -- may be undertaken to</p> <p>12 support the company's sales efforts or to</p> <p>13 maximize the value of the product?</p> <p>14 MR. ERCOLE: Objection to form;</p> <p>15 asked and answered. Not sure I</p> <p>16 understand.</p> <p>17 THE WITNESS: No. What I would</p> <p>18 say is, this is to maximize the value</p> <p>19 of our tablet. This is not to expand</p> <p>20 the market or grow the market in any</p> <p>21 way. It's using an alternative to the</p> <p>22 market, which is a tablet or capsule,</p> <p>23 which, by default, if they utilize the</p> <p>24 tablet and capsule, since we didn't</p>	<p style="text-align: right;">Page 226</p> <p>1 have a thin film on the market, that we</p> <p>2 would create more value for the</p> <p>3 organization, yes.</p> <p>4 BY MR. KIEFFER:</p> <p>5 Q. Okay. And he does say, after</p> <p>6 all, at the end of the first paragraph, "in</p> <p>7 support of our Buprenorphine/Naloxone sales</p> <p>8 efforts"; correct?</p> <p>9 A. Yeah, that's correct. It's</p> <p>10 for our tablet and capsule.</p> <p>11 Q. And in the last paragraph, "As</p> <p>12 you can see, we are moving full steam ahead</p> <p>13 on maximizing the value of Buprenorphine</p> <p>14 Naloxone."</p> <p>15 Right?</p> <p>16 A. And we would do that with</p> <p>17 every product. Not necessarily to this</p> <p>18 extent, where there's a competing product</p> <p>19 on the market, but on any generic product,</p> <p>20 our intent is to maximize the value of that</p> <p>21 asset.</p> <p>22 Q. And the most fundamental way</p> <p>23 you maximize the value of the product is</p> <p>24 your company's customers buy it or buy more</p>
<p style="text-align: right;">Page 227</p> <p>1 of it and create sales revenues; right?</p> <p>2 It's axiomatic, isn't it?</p> <p>3 MR. ERCOLE: Objection to form.</p> <p>4 THE WITNESS: No. The way we</p> <p>5 try and build our business is to have a</p> <p>6 better supply chain, a better R&amp;D</p> <p>7 pipeline, and a lower cost to our</p> <p>8 competitors, so that they're willing to</p> <p>9 buy more of our product than our</p> <p>10 competitor's product, then, in fact,</p> <p>11 increasing sales.</p> <p>12 MR. KIEFFER: All right. Fair</p> <p>13 enough.</p> <p>14 - - -</p> <p>15 (Teva-Boyer No. 016 was marked for</p> <p>16 identification.)</p> <p>17 - - -</p> <p>18 BY MR. KIEFFER:</p> <p>19 Q. Sir, I've handed you what</p> <p>20 we've marked as Exhibit 16. This is a</p> <p>21 document that was provided to us, again,</p> <p>22 from your custodial files. It has a</p> <p>23 number, in the lower, right-hand corner, of</p> <p>24 Acquired_Actavis_01178983. It's entitled</p>	<p style="text-align: right;">Page 228</p> <p>1 "Buprenorphine &amp; Naloxone Shared Marketing</p> <p>2 Plan Summary."</p> <p>3 Do you see what I'm referring</p> <p>4 to there?</p> <p>5 A. Yes.</p> <p>6 Q. I'm not going to ask you about</p> <p>7 all of it. I really think my questions are</p> <p>8 pretty confined.</p> <p>9 The first paragraph on the</p> <p>10 first page states, "This marketing plan</p> <p>11 covers the market as a whole. Because it</p> <p>12 is designed as a shared program between</p> <p>13 manufacturers, it does not target specific</p> <p>14 accounts. The ultimate goal is to get</p> <p>15 Suboxone sublingual film patients,</p> <p>16 dispensing pharmacists, and physicians to</p> <p>17 convert their scripts to the generic</p> <p>18 sublingual tablet."</p> <p>19 That's what you were</p> <p>20 describing a moment ago; correct?</p> <p>21 A. That's exactly right.</p> <p>22 Q. Right. "Other generic</p> <p>23 Buprenorphine and Naloxone manufacturers</p> <p>24 are invited to deploy this joint marketing</p>

<p style="text-align: right;">Page 229</p> <p>1 effort in order to achieve this goal."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes. I don't know who created</p> <p>4 this document. If I'm not mistaken, it</p> <p>5 came from one of the other generic</p> <p>6 manufacturers, and they were trying to get</p> <p>7 others involved in this campaign of</p> <p>8 notifying physicians of an alternative to</p> <p>9 the, as you said, the sublingual film or</p> <p>10 the thin film.</p> <p>11 Q. Okay. And the idea it speaks</p> <p>12 here, it is not targeted to specific</p> <p>13 accounts. And you've called it an</p> <p>14 awareness campaign; right?</p> <p>15 A. I would say that's what it is,</p> <p>16 yes.</p> <p>17 Q. And the idea, in bold -- and I</p> <p>18 won't repeat it all -- is to try to get</p> <p>19 prescribers to switch from this thin film</p> <p>20 to the alternative product, which Actavis</p> <p>21 made at the time?</p> <p>22 A. Right. So the brand company</p> <p>23 launched a succession -- a</p> <p>24 life-cycle-management product, and they</p>	<p style="text-align: right;">Page 230</p> <p>1 moved all their patients from their brand</p> <p>2 tablet product to the brand thin film. And</p> <p>3 this was an attempt by, I believe, one of</p> <p>4 the manufacturers to figure out a way that</p> <p>5 all generic companies that happened to have</p> <p>6 the tablet could participate in educating</p> <p>7 physicians of a lower cost alternative and</p> <p>8 move it back to the generic tablet they</p> <p>9 were originally using.</p> <p>10 Q. Okay. And this awareness</p> <p>11 campaign that you've described, the idea</p> <p>12 behind it is sort of a -- the old a rising</p> <p>13 tide lifts all boats; right? If the</p> <p>14 generic manufacturers who were invested in</p> <p>15 this alternative version of buprenorphine</p> <p>16 and naloxone can get prescribers to switch</p> <p>17 to that versus the thin film, perhaps</p> <p>18 everyone benefits?</p> <p>19 MR. ERCOLE: Objection to form.</p> <p>20 THE WITNESS: I think it's a</p> <p>21 little mischaracterization.</p> <p>22 The answer is yes, but the --</p> <p>23 in this case, the benefit is not just</p> <p>24 the manufacturers. It's also the</p>
<p style="text-align: right;">Page 231</p> <p>1 patient and healthcare costs and</p> <p>2 everything else, because the generic</p> <p>3 tablet and capsule was a lower cost</p> <p>4 alternative to the thin film. So when</p> <p>5 you look at something like this, which</p> <p>6 I don't even know if it ever made it to</p> <p>7 the market, this is the kind of program</p> <p>8 that benefited the healthcare system in</p> <p>9 general, including the patient, and not</p> <p>10 just the manufacturer.</p> <p>11 BY MR. KIEFFER:</p> <p>12 Q. Fair enough. But --</p> <p>13 A. It was an interesting concept.</p> <p>14 Q. But it would benefit the</p> <p>15 manufacturer if the manufacturer sold more</p> <p>16 of the product, by definition?</p> <p>17 A. It could, yes.</p> <p>18 Q. Okay. The second paragraph of</p> <p>19 this document -- can you pull that up --</p> <p>20 states, "The plan is broken out into three</p> <p>21 primary audiences for the initial blitz:</p> <p>22 physicians, pharmacists and patients.</p> <p>23 Secondary target audiences include payers,</p> <p>24 PBMs, Key Opinion Leaders (physicians and</p>	<p style="text-align: right;">Page 232</p> <p>1 others), addiction and recovery groups and</p> <p>2 advocacy organizations. We'll begin with</p> <p>3 an immediate national press release day-one</p> <p>4 of approval, followed swiftly by a mix of</p> <p>5 independent and customer-sponsored</p> <p>6 campaigns, and more targeted print media</p> <p>7 outreach over time. The plan below</p> <p>8 outlines the message, frequency and</p> <p>9 vehicles targeted for each audience. All</p> <p>10 materials will be submitted to legal and RA</p> <p>11 for approval and FDA DDMAC review prior to</p> <p>12 use."</p> <p>13 Do you see what I just read?</p> <p>14 A. Yes.</p> <p>15 Q. That describes a pretty broad</p> <p>16 and detailed marketing and promotional</p> <p>17 plan, at least, for this buprenorphine and</p> <p>18 naloxone product, does it not?</p> <p>19 MR. ERCOLE: Objection to the</p> <p>20 form; document speaks for itself.</p> <p>21 THE WITNESS: Again, this was a</p> <p>22 plan that was not created by, at the</p> <p>23 time, I don't know if it was Watson or</p> <p>24 Actavis. This was a plan that was</p>



1 created by another entity that was  
 2 pitching either Watson or Actavis at  
 3 the time, to participate in a  
 4 promotional plan that they had derived.  
 5 - - -  
 6 (Teva-Boyer No. 017 was marked for  
 7 identification.)  
 8 - - -  
 9 BY MR. KIEFFER:  
 10 Q. Sir, I'm going to hand you  
 11 what we've marked as Exhibit 17. It bears  
 12 a Bates number TEVA\_MDL\_A\_12682371. It is  
 13 a one-page email, attaching what appears to  
 14 be the same document. And I apologize, it  
 15 looks like we only got here with one copy,  
 16 so I'm going to hand you mine at the  
 17 moment.  
 18 Let me know when you've had a  
 19 chance to review that.  
 20 A. (Witness reviews the  
 21 document.)  
 22 Okay.  
 23 Q. There's an email from you, at  
 24 the very top of the page, to Napoleon Clark

1 MR. ERCOLE: Objection to form;  
 2 argumentative.  
 3 THE WITNESS: Not at all.  
 4 MR. ERCOLE: Move to strike the  
 5 initial commentary by plaintiff's  
 6 counsel.  
 7 THE WITNESS: Yeah. Not at  
 8 all. This was something that was  
 9 created by the Amneal organization via  
 10 Jim Luce. He reached out to me and  
 11 asked me if we are interested in it. I  
 12 dropped an email to Napoleon and said,  
 13 "Napoleon, we should discuss to figure  
 14 out what the cost of this program would  
 15 be."  
 16 BY MR. KIEFFER:  
 17 Q. Okay.  
 18 A. And whether we thought that it  
 19 was -- was worth looking at it and could we  
 20 afford it within our marketing budget.  
 21 Q. Okay. And do you recall what  
 22 the results of your discussion with  
 23 Napoleon were?  
 24 A. I don't know, but I don't

1 dated 2/17 of '13. Subject is "Forwarding  
 2 Bu/Na marketing plan," and you state, "FYI.  
 3 We will need to discuss Tuesday." Correct?  
 4 A. That's correct.  
 5 Q. And beneath that there is an  
 6 email from a gentleman named Jim Luce to  
 7 you, same subject, "BuNa marketing plan,"  
 8 and it states, "Andy... As we discussed I  
 9 am forwarding our marketing plan to drive  
 10 conversion of the Suboxone product (both  
 11 dosage forms) to the generic sublingual  
 12 products," and then it goes on from there.  
 13 Do you see what I just read?  
 14 A. Yes.  
 15 Q. Okay. A moment ago, you  
 16 testified a couple of times -- and  
 17 relatively emphatically, at least to my  
 18 ear, that this marketing plan document that  
 19 is attached was not your company's -- "your  
 20 company" being Actavis, at the time -- but  
 21 was from a competitor. A plain reading of  
 22 this email would perhaps suggest otherwise.  
 23 Having looked at this email,  
 24 does that jog any different recollection?

1 remember having a program in place ever.  
 2 - - -  
 3 (Teva-Boyer No. 018 was marked for  
 4 identification.)  
 5 - - -  
 6 BY MR. KIEFFER:  
 7 Q. Sir, I'm handing you what  
 8 we've marked as Exhibit 18. Exhibit 18 is  
 9 an email from Napoleon Clark to David  
 10 Myers, carbon copying you, and the subject  
 11 is "Buprenorphine Naloxone Address/Phone  
 12 List."  
 13 Do you see that?  
 14 A. Yes.  
 15 Q. And it appears to have  
 16 attachments which are identified as  
 17 "Buprenorphine Physician Treatment Centers  
 18 and State Agencies."  
 19 Do you see that as well?  
 20 A. Yes.  
 21 Q. All right. Now, this is dated  
 22 April 7th, 2013. The prior email from  
 23 you to Mr. Clark was dated February 17th,  
 24 2013. So six weeks or so afterwards,

1 thereabouts.  
 2 Does that sound right to you?  
 3 A. That is correct.  
 4 Q. Okay. And Mr. Clark says,  
 5 "Look what I got," with several exclamation  
 6 points. "Has everything except for email.  
 7 I got all 13,000+ docs address and phone  
 8 number. I got the US treatment centers  
 9 address and phone number. And I got the  
 10 State Substance abuse agencies address,  
 11 phone number. So it looks like we have all  
 12 of the contacts we need. Just need to  
 13 determine what outreach materials to send  
 14 and how to go about making the contact."  
 15 Do you see that?  
 16 A. Yes, I do.  
 17 Q. This email would certainly  
 18 appear to suggest that, at least as of  
 19 April 7th, 2013, Mr. Clark was under the  
 20 impression that this -- at least this  
 21 particular portion of a marketing program  
 22 for buprenorphine was moving forward; true?  
 23 MR. ERCOLE: Objection to form;  
 24 calls for speculation.

1 (Teva-Boyer No. 019 was marked for  
 2 identification.)  
 3 - - -  
 4 BY MR. KIEFFER:  
 5 Q. Sir, let me hand you what  
 6 we've marked as Exhibit 19. Exhibit 19 is  
 7 a document -- again, it was provided to us  
 8 from your custodial electronic files with a  
 9 number on the first page of  
 10 Acquired\_Actavis\_02293291. And it  
 11 attaches a slide deck, with the first page  
 12 identifying "NACDS 2014, Boston,  
 13 Massachusetts."  
 14 Do you see what I'm referring  
 15 to there?  
 16 A. Yes.  
 17 Q. You've mentioned the NACDS a  
 18 couple of times. That's the National  
 19 Association of Chain Drug Stores; correct?  
 20 A. Yes.  
 21 Q. They have a convention or  
 22 annual or semiannual meeting?  
 23 A. Yes.  
 24 Q. Okay. Is it annual? Is it

1 THE WITNESS: I think you'd  
 2 need to ask Napoleon. Again, I don't  
 3 remember ever introducing any of these  
 4 programs, so I don't know the answer.  
 5 He was obviously still working on it  
 6 behind the scenes after the original  
 7 February 17th date.  
 8 BY MR. KIEFFER:  
 9 Q. Okay. It's not your  
 10 testimony, I take it, that when you were at  
 11 Actavis in April of 2013 and thereafter,  
 12 that Actavis did not undertake some of  
 13 these activities -- some of these contacts  
 14 to some of these individuals and groups  
 15 that Mr. Clark identifies in his email, you  
 16 just don't remember; is that right?  
 17 MR. ERCOLE: Objection to form.  
 18 If -- you can answer if you  
 19 understand the question.  
 20 (Simultaneous cross-talk.)  
 21 (Clarification by reporter.)  
 22 THE WITNESS: I do not know the  
 23 answer.  
 24 - - -

1 semiannual?  
 2 A. This one here is annual.  
 3 Q. Annual, okay.  
 4 Is that something that you  
 5 would typically have gone to?  
 6 A. This one, probably yes.  
 7 Q. Okay. This appears to be  
 8 PowerPoint materials that Actavis put  
 9 together in connection with that meeting?  
 10 A. Yes.  
 11 Q. All right. Take a look, if  
 12 you would, at Page 10 of that PowerPoint.  
 13 It's the next-to-the-last page. The title  
 14 of that slide is "Select Actavis  
 15 First-to-Files (FTF) confirmed in the last  
 16 12 months."  
 17 Do you see that?  
 18 A. Yes.  
 19 Q. For the benefit of our jury,  
 20 who may or may not have heard this term  
 21 before, what does the term  
 22 "first-to-files," or "FTF" -- what does  
 23 that mean in layman's terms?  
 24 A. It means that Watson, or in

1 this case Actavis, filed a product and is  
 2 getting designation from the FDA that we  
 3 were the first-to-file of that product and  
 4 it would entitle us to, in most cases,  
 5 either a shared or a six-month exclusivity  
 6 on our own.

7 Q. Okay. And first-to-file as a  
 8 pharmaceutical company with the generic  
 9 version of a product; right?

10 A. That is correct.

11 Q. Okay. So being the  
 12 first-to-file can be a big deal, for lack  
 13 of a better word, in terms of product  
 14 launch?

15 MR. ERCOLE: Objection to form.

16 THE WITNESS: Being  
 17 first-to-file is the time that you come  
 18 to market as your own -- on your own or  
 19 as a select group. There is more value  
 20 for the manufacturer, and it brings a  
 21 lower cost alternative to the  
 22 marketplace, versus the brand that the  
 23 patient may be currently on.

24 BY MR. KIEFFER:

1 Q. The -- on the left-hand column  
 2 there, that says "Product" -- and there's  
 3 various products identified with  
 4 manufacturer names. Those are the -- are  
 5 those the branded version of the particular  
 6 product?

7 A. Yes.

8 Q. So, for example, the  
 9 next-to-the-last one says "Suboxone," and  
 10 then it looks like it's "Reckitt  
 11 Benckiser"? Did I say that right?

12 A. I believe so.

13 Q. Okay. And then, in  
 14 parenthetical, "Buprenorphine/Naloxone";  
 15 right? That is the -- that represents a  
 16 product that Actavis was the first-to-file  
 17 on in the last 12 months with a generic  
 18 equivalent?

19 A. They believed that they were  
 20 the first-to-file as of this point in time  
 21 on that particular product for the thin  
 22 film, yes.

23 Q. Okay. And the indication  
 24 listed there is "opioid dependence"?

1 A. Yes, that's what it says.

2 Q. Okay. And do you have a  
 3 memory that that product indeed was  
 4 intended to treat opioid dependence?

5 A. Again, I remember -- I said it  
 6 before, I didn't know the indication  
 7 exactly, but I'm assuming that that's  
 8 accurate.

9 Q. Okay. And then there's a  
 10 column on the far right that says "IMS  
 11 Sales MAT/6/14."

12 Do you see that?

13 A. Yes.

14 Q. What does "IMS" stand for?

15 A. IMS was the company that we  
 16 talked about before that provides all of  
 17 the data.

18 Q. Sales data?

19 A. Yes.

20 Q. So is that, as you understand  
 21 it, the figure that is listed here for this  
 22 particular medication -- the 1,388 -- first  
 23 of all, that looks like that's described in  
 24 millions?

1 A. That's correct.

2 Q. So is that -- in layman's  
 3 terms, is that basically \$1,388,000,000  
 4 that's being communicated there?

5 A. That's what IMS dollars were,  
 6 according to IMS, yes.

7 Q. According to IMS?

8 A. Yes.

9 Q. Okay.

10 A. But the dollars in IMS are not  
 11 accurate, like they are on the prescription  
 12 side for TRxs and units. So if you wanted  
 13 the real dollars, you'd probably have to go  
 14 back to Reckitt Benckiser, if they are  
 15 publicly traded at the time, and see what  
 16 exactly they told the Street was their  
 17 number for buprenorphine/naloxone, the thin  
 18 film.

19 Q. Well, in this -- be that as it  
 20 may, as you told us a moment ago, this is  
 21 an Actavis-prepared PowerPoint that was  
 22 presented to the NACDS; correct?

23 MR. ERCOLE: Objection to form.

24 THE WITNESS: So it's fairly

<p style="text-align: right;">Page 245</p> <p>1 consistent in the marketplace to use,  2 as a benchmark, the brand dollars that  3 are put out there by IMS. That's not  4 necessarily -- we don't believe that  5 those are the exact numbers for the  6 brand. But since there's no other way  7 to have a consistent number for all  8 products across all companies, that's  9 why it was used for that.  10 But yes, that would be an  11 internal document that was utilized by  12 Actavis.  13 BY MR. KIEFFER:  14 Q. Fair enough.  15 And IMS sales dollars were  16 used because they were believed to be a  17 reasonable benchmark. Might not be  18 precise, but reasonably close?  19 A. You know what --  20 MR. ERCOLE: Objection to form;  21 asked and answered.  22 Go ahead.  23 THE WITNESS: They were  24 utilized because you didn't have</p>	<p style="text-align: right;">Page 246</p> <p>1 anything else.  2 BY MR. KIEFFER:  3 Q. Fair enough.  4 And if -- is it correct that  5 this 1.3, almost \$1.4 billion, is the IMS  6 sales figure that is attributable to sales  7 of this branded product by this one  8 company, Reckitt Benckiser?  9 A. Right. So this -- what this  10 says is, the moving annual total as of  11 June 2014, which would have been the  12 previous 12 months leading up to June of  13 '14, that there was \$1.388 billion of  14 buprenorphine/naloxone -- as a brand,  15 Suboxone -- thin film sales, according to  16 IMS WACC dollars.  17 Q. And the reason this data is  18 included and presented in the way it is is  19 to give audience members an idea of the  20 potential market that Actavis is getting  21 into by virtue of being the first-to-file  22 with respect to a particular product; true?  23 A. No, the intent of this was to  24 let the -- you know, our customers know</p>
<p style="text-align: right;">Page 247</p> <p>1 that we have a very good R&amp;D pipeline; and  2 as you need to make decisions on our  3 existing inline portfolio or our pipeline,  4 we want you to take and do more business  5 with us overall, not necessarily on that  6 particular product.  7 But, again, I said to you  8 earlier on that we grow through our supply  9 chain, through our R&amp;D pipeline, our  10 ability to supply consistently at a low  11 price.  12 And this is giving the -- an  13 indication to the market, the folks that we  14 do business with, these are some of the  15 products that will be in our portfolio and  16 a reason why you would want to partner with  17 us on our existing product portfolio as we  18 grow together.  19 Q. Okay. And not taking away  20 from that, sir, but if that's all true, why  21 include the dollars of the branded product  22 at all?  23 A. Because the only thing that  24 the marketplace recognizes is brand dollars</p>	<p style="text-align: right;">Page 248</p> <p>1 on products. They have no other way of  2 referencing, comparing one brand to  3 another, how big a product may or may not  4 be in the marketplace. IMS dollars are the  5 only thing that does that.  6 Whether they're accurate or  7 not really is immaterial. It's just, like  8 you said before, a benchmark of one versus  9 another.  10 Q. Okay. Fair enough.  11 Fair to say that there would  12 appear to be, at least as of this point in  13 time, a very substantial market for the  14 branded product Suboxone at almost  15 \$1.4 billion; correct?  16 A. For the brand product, it's a  17 very large market. The generic market will  18 only be as big as the number of competitors  19 and when you launch.  20 So for the brand market, it  21 was a very big market, yes.  22 Q. And certainly in the -- the  23 products that Actavis is identifying here,  24 where it was the first-to-file as confirmed</p>

1 in the last 12 months, the market for  
2 Suboxone is substantially higher than the  
3 market for any other product on that  
4 particular table; true?

5 A. The one two above, it's a  
6 billion-dollar market.

7 But, you know, the reality is,  
8 the size of the brand market does not  
9 really indicate whether the generic is  
10 going to be valuable, very valuable, or  
11 limited value.

12 It depends on how many generic  
13 players come to market as part of this  
14 first-to-file. If that's a shared  
15 first-to-file with 10 players, that  
16 \$1.38 billion will go to \$1.3 million in  
17 the course of minutes.

18 So the value on the brand side  
19 is only as valuable as the number of  
20 competitors that you have at the time of  
21 launch, and whether you are first in as a  
22 shared or you're late to market will  
23 determine what the value of that product  
24 is, regardless of what the brand is.

1 into a product, we do not know the number  
2 of players that are going to be on that  
3 market when we do come to market as a  
4 generic. So the assumption is that you're  
5 going to be first and early.

6 There's some cases that you  
7 are and some cases that you're not. But  
8 you usually don't know this far in advance.

9 Q. You don't know the number of  
10 players that are going to be involved when  
11 you come to market, but you do have some  
12 idea of the demand side of the market,  
13 true, for example, based on this IMS sales  
14 data?

15 A. You have demand units, you  
16 definitely know, yes.

17 Q. Demands units or demand sales,  
18 as reflected here; right?

19 A. Demand sales are --

20 MR. ERCOLE: Objection to form.

21 THE WITNESS: Demand sales are  
22 irrelevant.

23 BY MR. KIEFFER:

24 Q. Irrelevant?

1 Q. Well, the value -- what you  
2 just described, the value of the product  
3 when you get into the market, you said,  
4 depends somewhat on the number of  
5 competitors; true?

6 A. That is correct.

7 Q. That's a supply-side  
8 phenomenon; right? How many people are  
9 supplying the market at a given point in  
10 time; correct?

11 MR. ERCOLE: Objection to form.

12 THE WITNESS: It's based upon  
13 how many people are able to gain  
14 approval, when they gain removal, what  
15 their strategy was for an approval, was  
16 it a first-to-file. There's a whole  
17 lot of other things that go into that  
18 besides just supply and demand.

19 BY MR. KIEFFER:

20 Q. You got where I was going.

21 Whether the product is  
22 profitable or not also has a lot to do with  
23 factors on the demand side; right?

24 A. When we make decisions to get

1 A. Yes.

2 Q. Okay. So -- and then I'll  
3 move on.

4 If they're irrelevant, why is  
5 Actavis presenting that information to the  
6 National Association of Chain Drug Stores?

7 A. Well, we're not promoting it  
8 to the National Association of Chain Drug  
9 Stores. We're speaking to some of their  
10 members and letting them know these are the  
11 products that we are bringing to market.

12 I think that they are savvy  
13 enough to know, in their own minds, if  
14 we're not the only ones that are speaking  
15 to them, they may have spoken to three  
16 other companies before us to say that  
17 they're coming at the same time as we are  
18 with the thin film.

19 So they're not looking at the  
20 brand dollars. That's just a reference  
21 point. What they're making decisions on  
22 is: How many players are going to be  
23 there? Who is going to have a good cost?  
24 Who is going to have a good supply chain?



1 But the brand dollars  
2 themselves are irrelevant, unless you've  
3 got the whole picture of number of players.

4 Q. When Actavis makes decisions  
5 about what products it may seek to be the  
6 first-to-file on, I assume that a decision  
7 like that has consequences within the  
8 organization -- resource consequences;  
9 personnel time, dollars spent, those sorts  
10 of things?

11 MR. ERCOLE: Objection to form;  
12 compound, vague.

13 THE WITNESS: We have a finite  
14 amount of resources that we will spend  
15 on our R&D pipeline. So at the time  
16 that you're making the decision, you  
17 are cross-functionally making decisions  
18 with legal and regulatory and R&D and  
19 operations on all the different  
20 functional areas as to whether we've  
21 got the capability of developing it,  
22 filing it, getting approval for it,  
23 manufacturing it.

24 And, you know, obviously, it's

1 a -- it's a horserace for us as to who  
2 can try and get there first.

3 BY MR. KIEFFER:

4 Q. Because you have finite --  
5 because the company has finite resources,  
6 it is not practical to be the first-to-file  
7 on every opportunity that's out there to  
8 develop and go to market with the generic  
9 equivalent of a branded medicine; true as a  
10 general rule?

11 A. Say that again.

12 Q. Yeah. Because you've got  
13 finite resources, it is not practical to  
14 try to be the first-to-file in each and  
15 every instance where your company might  
16 have an opportunity to come to market first  
17 with the generic equivalent of a branded  
18 pharmaceutical; true?

19 MR. ERCOLE: Objection to form.

20 BY MR. KIEFFER:

21 Q. You got to pick your horses,  
22 in other words, if it's a horserace.

23 A. Yes, but there's a --

24 MR. ERCOLE: Hold on.

1 Objection to form; multiple  
2 questions, no time frame.

3 You can answer the question if  
4 you know --

5 THE WITNESS: Regardless of all  
6 of that, when you're making a decision  
7 to develop a product, you don't develop  
8 every single product with the intent of  
9 being first-to-file.

10 BY MR. KIEFFER:

11 Q. Right.

12 A. Right?

13 So you're looking at your  
14 capacity in your facilities. You're  
15 looking at the technology. You're looking  
16 at your R&D capabilities of whether you can  
17 even develop a thin film. Some companies  
18 can; some companies can't. All of those --  
19 the regulatory pathway, the legal pathway.  
20 All of those go into the decision-making  
21 process.

22 And sometimes you actually  
23 become first-to-file, and sometimes you're  
24 not. But you don't know normally make that

1 decision all the way in advance, even  
2 before you start to develop the product.

3 It's a calculated risk. You  
4 win some; you lose some.

5 Q. When you were at Actavis and  
6 decisions were being made about which  
7 products the company would attempt to be  
8 the first-to-file on, was consideration  
9 given to the potential demand in the  
10 marketplace for a generic version of that  
11 particular product?

12 A. Forecast models were created  
13 based upon when we would get approval, how  
14 many players would be in the market at that  
15 particular time, where we thought the price  
16 would be, what the market share is that we  
17 would be attempting to get. And that  
18 combined made part of the decision of what  
19 products we would look to commercialize.

20 Q. Okay. And one of the factors  
21 that was considered was the demand or the  
22 potential size of the market for a generic  
23 version of a particular branded product,  
24 wasn't it?

1 MR. ERCOLE: Objection to form.  
 2 BY MR. KIEFFER:  
 3 Q. Or not. If -- if -- if demand  
 4 and market size is a nonfactor, tell me  
 5 that and I'll move on.  
 6 MR. ERCOLE: Objection to form;  
 7 asked and answered multiple times  
 8 already.  
 9 THE WITNESS: Well, you're --  
 10 you're missing the point. The point  
 11 is, there's products that are a  
 12 \$20-million brand, that a generic  
 13 company can make more money on that as  
 14 an exclusive than on a \$5-billion  
 15 product, where there's 10, 11 or 12  
 16 players.  
 17 So looking at the brand dollars  
 18 by itself, before the generics come to  
 19 market, is not the only indicator as to  
 20 what the value is to the organization.  
 21 BY MR. KIEFFER:  
 22 Q. And my question isn't did you  
 23 only look at brand dollars by themselves as  
 24 the only indicator, my question is:

1 Q. I'm not looking -- we're not  
 2 communicating.  
 3 It's fine to say you've got to  
 4 look at it in its totality. Did its  
 5 totality include brand dollars or ignore  
 6 brand dollars?  
 7 A. No, you -- it would include  
 8 it.  
 9 Q. It's an important metric to  
 10 consider, is it not?  
 11 MR. ERCOLE: Objection.  
 12 THE WITNESS: No.  
 13 MR. ERCOLE: Objection to form;  
 14 it's been asked and answered multiple,  
 15 multiple times now.  
 16 THE WITNESS: No.  
 17 BY MR. KIEFFER:  
 18 Q. Not an important metric?  
 19 A. It's only a piece of the  
 20 puzzle. You cannot look at that piece of  
 21 the puzzle by itself.  
 22 Q. Okay. Be that as it may, on  
 23 this particular exhibit, Exhibit 19, the  
 24 first-to-file slide we were looking at,

1 Looking at brand dollars was certainly a  
 2 factor that folks in senior management like  
 3 you at Actavis would consider when  
 4 determining whether to try to be the  
 5 first-to-file on a new medication?  
 6 MR. ERCOLE: Same objection.  
 7 THE WITNESS: I think you're  
 8 missing the point that we looked at  
 9 everything in its totality and not that  
 10 by itself.  
 11 Again, there could be a  
 12 \$20-million brand that a generic  
 13 company could be exclusive for the next  
 14 10 years and make more money on that  
 15 product than you would make on Lipitor,  
 16 which was a \$5-billion or \$7-billion  
 17 brand in the market.  
 18 So you've got to look at it  
 19 as -- in its totality. We developed  
 20 both of them but the actual value of  
 21 that is based upon a lot of other  
 22 factors than just the brand dollars  
 23 that you're looking at.  
 24 BY MR. KIEFFER:

1 Slide 10, in fact, identifies brand  
 2 dollars, does it not, versus some other  
 3 metric?  
 4 MR. ERCOLE: Objection to the  
 5 form; asked and answered, the document  
 6 speaks for itself.  
 7 THE WITNESS: That's correct.  
 8 That's the only publicly available data  
 9 that -- that all products can be looked  
 10 upon as. That is correct.  
 11 But to your point, as I look  
 12 at this, there's products on here that are  
 13 smaller in brand dollars than Suboxone that  
 14 will make more money as a generic than  
 15 Suboxone will in its life as a generic.  
 16 MR. KIEFFER: Okay.  
 17 - - -  
 18 (Teva-Boyer No. 020 was marked for  
 19 identification.)  
 20 - - -  
 21 BY MR. KIEFFER:  
 22 Q. Sir, we just handed you  
 23 Exhibit 20. Exhibit 20 has a number in the  
 24 lower, right-hand corner,

<p style="text-align: right;">Page 261</p> <p>1 TEVA_MDL_A_12711059. This was provided to</p> <p>2 us from your electronic custodial files at</p> <p>3 Teva. The first page of this slide deck is</p> <p>4 entitled "US Generics: New Product Launch</p> <p>5 Opportunities." It says, "TEC updated</p> <p>6 March 25, 2017."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. What's "TEC" stand for?</p> <p>10 A. Teva executive committee.</p> <p>11 Q. Is this a slide deck that you</p> <p>12 would have had some input into?</p> <p>13 A. Yes.</p> <p>14 Q. Were you on the Teva executive</p> <p>15 committee?</p> <p>16 A. No, I was not.</p> <p>17 Q. But you would have helped to</p> <p>18 have prepared this for review by members of</p> <p>19 the executive committee?</p> <p>20 A. Part of it, yes.</p> <p>21 Q. Take a look, if you would, at</p> <p>22 Page 4 of the slide deck. It's entitled</p> <p>23 "Product Launch Summaries."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 262</p> <p>1 The first item listed there is</p> <p>2 buprenorphine/naloxone thin film that we've</p> <p>3 been discussing; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And, again, brand sales,</p> <p>6 according to IMS, are identified there, in</p> <p>7 this instance, they are 1 million -- I'm</p> <p>8 sorry -- \$1,568,000,000; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And then there is a column to</p> <p>11 the right of that that says "Forecast Range</p> <p>12 (Base-Upside)"; right?</p> <p>13 A. Yes.</p> <p>14 Q. And I'm assuming that is a</p> <p>15 forecast of the potential upside to Teva of</p> <p>16 that particular product launch?</p> <p>17 A. That would be the generic</p> <p>18 range of that particular product.</p> <p>19 Q. The generic range?</p> <p>20 A. You could make zero or you</p> <p>21 could make 240 million.</p> <p>22 Q. Right. Got it. But the</p> <p>23 generic range of potential sales to Teva of</p> <p>24 that product?</p>
<p style="text-align: right;">Page 263</p> <p>1 A. That would be correct.</p> <p>2 Q. Okay. And for that particular</p> <p>3 range, what is the corresponding time</p> <p>4 period? Is it annual sales?</p> <p>5 A. Don't know the answer, based</p> <p>6 upon this.</p> <p>7 Q. What would be your belief,</p> <p>8 having looked at a lot of Teva internal</p> <p>9 documents and Actavis ones before that?</p> <p>10 MR. ERCOLE: Hold on.</p> <p>11 Objection to form. You're asking him</p> <p>12 to speculate.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Well, I -- and let me back up</p> <p>15 and say I'm really not asking you to</p> <p>16 speculate. I mean, if you tell me, "I have</p> <p>17 absolutely no idea whatsoever, I'd have to</p> <p>18 guess," tell me that. If your best</p> <p>19 assumption is it's annual versus sales over</p> <p>20 the entire life of the product, that's all</p> <p>21 I'm trying to get a sense of.</p> <p>22 MR. ERCOLE: Same objection.</p> <p>23 THE WITNESS: I don't know the</p> <p>24 answer, because this was probably done</p>	<p style="text-align: right;">Page 264</p> <p>1 by portfolio. If I was guessing, it</p> <p>2 would probably be the first year sales.</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Okay. First year after</p> <p>5 launch?</p> <p>6 A. The first year after launch,</p> <p>7 assuming whatever they decided as far as</p> <p>8 competition goes and price and everything</p> <p>9 else.</p> <p>10 Q. Okay.</p> <p>11 A. If it materialized.</p> <p>12 Q. And the zero to the left of</p> <p>13 the \$240 million, is there -- in your time</p> <p>14 at Teva, was there a first-to-file product</p> <p>15 launch where Teva actually earned zero from</p> <p>16 the product? Or is that just</p> <p>17 communicating, "We don't know -- here's</p> <p>18 what we think the potential upside is, but</p> <p>19 we're not sure where we are going to land</p> <p>20 in that range the first year"?</p> <p>21 A. Well --</p> <p>22 MR. ERCOLE: Objection to form;</p> <p>23 compound.</p> <p>24 THE WITNESS: There's a couple</p>

1 of things.  
 2 If we can't get regulatory  
 3 approval, it goes to zero. If we can't  
 4 get legal clearance, it goes to zero.  
 5 If we can't get manufacturing to make  
 6 the product consistently, it goes to  
 7 zero.  
 8 So if you're asking are there  
 9 products that are on this list that are  
 10 actually attaining zero, the answer is  
 11 100 percent yes. Because there's so  
 12 many other factors besides just our  
 13 forecast model that tries to determine  
 14 what the base case is and the upside  
 15 case is.  
 16 BY MR. KIEFFER:  
 17 Q. Okay. There may be products  
 18 on a list that are obtaining zero dollars  
 19 in sales at a particular point in time;  
 20 correct?  
 21 A. They may never see the market.  
 22 I don't even know if -- I don't think this  
 23 was ever launched. I'm not positive,  
 24 but --

1 case, and I want to follow up with some  
 2 questions that Mr. Kieffer asked. First of  
 3 all, just a few preliminaries.  
 4 What is your current  
 5 residence? Where do you live?  
 6 A. [REDACTED]  
 7 [REDACTED]  
 8 Q. And where is your business  
 9 address?  
 10 A. 400 Crossing Boulevard. That  
 11 is in Bridgewater, New Jersey.  
 12 Q. And your current employer is  
 13 Amneal Pharmaceuticals; is that correct?  
 14 A. That is correct.  
 15 Q. All right. And can you just  
 16 remind the jury what your current position  
 17 is there?  
 18 A. I am in charge of sales,  
 19 marketing, pricing, contracts, customer  
 20 service and distribution.  
 21 Q. And do you have an official  
 22 title at Amneal?  
 23 A. Executive vice president,  
 24 commercial operations.

1 Q. Do you know?  
 2 A. I don't.  
 3 MR. KIEFFER: Why don't we take  
 4 a break. We've been going about an  
 5 hour and 15 minutes.  
 6 (Incidental comments held off the  
 7 stenographic record.)  
 8 THE VIDEOGRAPHER: The time is  
 9 approximately 2:28 p.m. We're going  
 10 off the record.  
 11 (Recess taken from 2:28 p.m. to  
 12 2:41 p.m.)  
 13 THE VIDEOGRAPHER: We are back  
 14 on the record. The time is  
 15 approximately 2:41 p.m.  
 16 MR. KIEFFER: I'm going to pass  
 17 the witness, for the time being, to  
 18 Mr. Crawford.  
 19 EXAMINATION  
 20 BY MR. CRAWFORD:  
 21 Q. Good afternoon, Mr. Boyer.  
 22 A. Good afternoon.  
 23 Q. I'm Mark Crawford. I  
 24 represent the plaintiffs in this opioid

1 Q. And please remind the jury,  
 2 what was your position when you -- your  
 3 last position at Actavis, before Teva  
 4 purchased the business?  
 5 A. Senior vice president of sales  
 6 and marketing.  
 7 - - -  
 8 (Teva-Boyer No. 021 was marked for  
 9 identification.)  
 10 - - -  
 11 BY MR. CRAWFORD:  
 12 Q. Okay. I want to mark the next  
 13 exhibit, which is 21. Give you the  
 14 original here.  
 15 A. Thank you, sir.  
 16 Q. These are some corporate  
 17 organizational charts. The document number  
 18 is Allergan\_MDL\_02186860. And if you look  
 19 at the first page there, that's -- this  
 20 will be -- pull it up on the screen,  
 21 here -- this will be Document No. 1198.  
 22 MR. ERCOLE: Before you ask  
 23 your next question, can we go off the  
 24 record for one second?

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1 MR. CRAWFORD: Sure.  
 2 THE VIDEOGRAPHER: The time is  
 3 approximately 2:43 p.m. and we're going  
 4 off the video record.  
 5 (Discussion off the record.)  
 6 THE VIDEOGRAPHER: We are back  
 7 on the record. The time is  
 8 approximately 2:45 p.m.  
 9 BY MR. CRAWFORD:  
 10 Q. All right. I've handed you a  
 11 corporate org chart, and this is an Actavis  
 12 chart when you were at Actavis; correct?  
 13 A. No.  
 14 Q. Is this Teva?  
 15 A. This was Teva.  
 16 Q. Okay. And you're at the top  
 17 there, and your position at Teva was  
 18 president and CEO of North American  
 19 generics; correct?  
 20 A. Correct.  
 21 Q. You had below you -- what I  
 22 want to do is get an idea of -- you had  
 23 certain marketing people working below you;  
 24 correct?

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1 December of '17.  
 2 Q. Okay. And then who succeeded  
 3 Mr. Olafsson?  
 4 A. Dipankar Bhattacharjee.  
 5 Q. Who?  
 6 A. Dipankar Bhattacharjee.  
 7 Q. Okay.  
 8 Do you need the spelling of  
 9 that?  
 10 MR. KIEFFER: We've already  
 11 referenced his name.  
 12 BY MR. CRAWFORD:  
 13 Q. All right. So and did they  
 14 report -- do you know who they reported to?  
 15 A. They would have reported to  
 16 the CEO.  
 17 Q. And who was that?  
 18 A. The global CEO.  
 19 Initially, it was Erez  
 20 Vigodman. And after Erez, it was a  
 21 temporary -- Yitzhak -- I forget his last  
 22 name.  
 23 Q. But they were based in Israel;  
 24 correct?

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1 MR. ERCOLE: Objection to form.  
 2 THE WITNESS: I had a whole  
 3 host of people, but, yes, with  
 4 different titles.  
 5 BY MR. CRAWFORD:  
 6 Q. Yeah. So I'm trying to give  
 7 the jury an idea of what the functions are  
 8 of some of these marketing people who  
 9 reported to you.  
 10 A. Okay.  
 11 Q. And by the way, who do you  
 12 report to within this corporate structure?  
 13 Who was above you?  
 14 A. When was this?  
 15 Q. Well, whenever the structure  
 16 existed, probably the year you were there.  
 17 So 2016.  
 18 A. I had two different global  
 19 CEOs.  
 20 Q. Okay. And what were -- who  
 21 were they and what were the time periods?  
 22 A. Siggi Olafsson was the global  
 23 CEO from August of '16 when I started at  
 24 Teva until approximately November or

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1 A. Yes.  
 2 Q. And you said you were involved  
 3 in the transition. So Teva purchased  
 4 Actavis, the generic business, in 2016;  
 5 right?  
 6 A. That is correct.  
 7 Q. And you were at Actavis and  
 8 came over to Teva, right, in your position  
 9 here?  
 10 A. Correct.  
 11 Q. And you were involved in  
 12 trying to merge or transition the  
 13 business -- Actavis business into Teva;  
 14 correct?  
 15 MR. ERCOLE: Objection to form.  
 16 THE WITNESS: My responsibility  
 17 was to work with the team to integrate  
 18 the two businesses together.  
 19 BY MR. CRAWFORD:  
 20 Q. And the team -- was there  
 21 anyone on the team from the Teva Israeli  
 22 entity?  
 23 MR. ERCOLE: Objection to form.  
 24 What are you referring to as the "Teva



1 Israeli entity"?  
 2 MR. CRAWFORD: Teva Limited.  
 3 MR. ERCOLE: Okay.  
 4 BY MR. CRAWFORD:  
 5 Q. Was anyone from Israel that  
 6 was on your team?  
 7 MR. ERCOLE: Objection to form.  
 8 Is the question: Was there  
 9 anyone from Teva Limited there or  
 10 anyone from Israel there?  
 11 MR. CRAWFORD: I'm rephrasing  
 12 it. Anyone -- because he seemed to  
 13 indicate he didn't know the difference  
 14 between the Tevas.  
 15 BY MR. CRAWFORD:  
 16 Q. So I'm just wondering if  
 17 anyone from Israel was on the transition  
 18 team.  
 19 MR. ERCOLE: Objection to form.  
 20 Move to strike, mischaracterizes his  
 21 testimony.  
 22 I think it was clear earlier  
 23 that the agreement was the reference to  
 24 Teva was to Teva USA, so all those

1 Q. Okay. So it was a group of  
 2 you within Teva, now, trying to integrate  
 3 the two organizations; right?  
 4 A. So I was named as president  
 5 and CEO. And I named my next level of  
 6 management. And their job was to name the  
 7 next level of management, and that's part  
 8 of the integration process.  
 9 Q. Okay. So was there any -- as  
 10 part of the integration process, did you  
 11 interface with anyone from Israel?  
 12 A. There's manufacturing in  
 13 Israel. There's other entities in Israel,  
 14 including finance, that there was a US base  
 15 as well as some piece of that in Israel.  
 16 So I'm sure I interfaced with people in  
 17 Israel.  
 18 Q. Do you remember any of their  
 19 names?  
 20 A. I don't know off the top of my  
 21 head, no.  
 22 Q. But you did interface --  
 23 A. I mean, I spoke to Erez  
 24 Vigodman, who was the CEO, not necessarily

1 questions pertained to Teva USA.  
 2 If you want to now ask about  
 3 Teva Limited, just make sure that  
 4 that's clear.  
 5 MR. CRAWFORD: Okay.  
 6 BY MR. CRAWFORD:  
 7 Q. All I'm asking is if someone  
 8 on your transition team was in Israel.  
 9 A. So I'm not sure what you mean  
 10 by "transition team." If I look at this  
 11 first page, there isn't anybody on this  
 12 page, that I can see, that was out of  
 13 Israel.  
 14 Q. Okay. I'm actually deviating  
 15 from the chart.  
 16 A. Okay.  
 17 Q. Going to -- you were on a  
 18 transition team. You referenced a  
 19 transition team; right?  
 20 A. No, it wasn't a team. I was  
 21 integrating two businesses. It's not a  
 22 team. It's -- the team is putting together  
 23 a new organizational structure, and we're  
 24 integrating two businesses together.

1 about the everyday business, but I knew who  
 2 he was. I spoke to him.  
 3 Q. And he's in Israel; correct?  
 4 A. He was in Israel.  
 5 Q. So I'm just trying to get an  
 6 idea. Was there an integration plan, a  
 7 written integration plan to integrate the  
 8 two businesses?  
 9 A. There were huge integration  
 10 plans across the entire company.  
 11 Q. Do you know who prepared the  
 12 integration plans?  
 13 A. The people that were on my  
 14 team would prepare it for each of their  
 15 individual areas.  
 16 Q. Okay. Were any of the plans  
 17 prepared in Israel?  
 18 MR. ERCOLE: Objection to form.  
 19 MR. CRAWFORD: If you know.  
 20 MR. ERCOLE: Calls for  
 21 speculation.  
 22 THE WITNESS: The commercial  
 23 plans were done in the US, because they  
 24 were for the commercial business for

<p style="text-align: right;">Page 277</p> <p>1 the US. If there were other plans or</p> <p>2 other parts of the organization, I</p> <p>3 can't speak to them.</p> <p>4 BY MR. CRAWFORD:</p> <p>5 Q. Okay. You're aware that Teva</p> <p>6 Limited, the Israeli company, purchased the</p> <p>7 Actavis entities from Allergan; correct?</p> <p>8 MR. ERCOLE: Objection to form.</p> <p>9 THE WITNESS: I don't know</p> <p>10 legal entities. That's not my area of</p> <p>11 expertise.</p> <p>12 BY MR. CRAWFORD:</p> <p>13 Q. All right. Getting back to</p> <p>14 the org chart, you have Maureen Cavanaugh</p> <p>15 below you, SVP, COO, North American</p> <p>16 generics.</p> <p>17 What was Ms. Cavanaugh's</p> <p>18 function with this organization here?</p> <p>19 A. She moved over -- she took</p> <p>20 over our financial administration, our OTC</p> <p>21 business, our new product launch planning,</p> <p>22 and also our other pieces of the financial</p> <p>23 business. So there were two people working</p> <p>24 on the financial side in financial</p>	<p style="text-align: right;">Page 278</p> <p>1 administration.</p> <p>2 Q. And she reported directly to</p> <p>3 you; correct?</p> <p>4 A. That's correct.</p> <p>5 Q. Did she come over from Actavis</p> <p>6 or was she at Teva originally?</p> <p>7 A. She was at Teva.</p> <p>8 Q. And reporting to her is Tim</p> <p>9 McFadden. He's a VP of market strategy,</p> <p>10 according to this chart. What was his</p> <p>11 function?</p> <p>12 A. He was working on, you know,</p> <p>13 US strategies, and I don't know the exact</p> <p>14 scope of it. He ended up having the OTC</p> <p>15 business as well. The nonprescription</p> <p>16 business reported up through him.</p> <p>17 Q. All right. But Ms. Cavanaugh</p> <p>18 was senior vice president/COO for generics</p> <p>19 in North America; correct?</p> <p>20 A. That was her title, yes.</p> <p>21 Q. But she didn't just work OTC;</p> <p>22 she worked on generics too; right?</p> <p>23 A. So she was originally in</p> <p>24 charge of sales and marketing at Teva,</p>
<p style="text-align: right;">Page 279</p> <p>1 prior to me joining the company. She moved</p> <p>2 over and took a role in new product</p> <p>3 launches and OTCs and customer</p> <p>4 administration and financial administration</p> <p>5 of the business.</p> <p>6 Q. Did she have anything to do</p> <p>7 with generic pharmaceutical drugs?</p> <p>8 A. Well, she was part of the</p> <p>9 team. So all the new product launches that</p> <p>10 were generics were generic pharmaceutical</p> <p>11 drugs, for the most part. There were some</p> <p>12 OTCs in that as well, but she was in charge</p> <p>13 of all new product launches, including all</p> <p>14 of our generic Rx.</p> <p>15 Q. So she did work on generic</p> <p>16 pharmaceutical products; right?</p> <p>17 A. What do you mean by "working</p> <p>18 on generic pharmaceutical products"? She</p> <p>19 was part of the generic organization.</p> <p>20 Q. Right.</p> <p>21 A. So she had new product</p> <p>22 launches that were Rx and a few that were</p> <p>23 OTC as well. She was responsible for</p> <p>24 forecasting that and working on portfolio</p>	<p style="text-align: right;">Page 280</p> <p>1 selection with parts of the organization.</p> <p>2 That was her new area of responsibility,</p> <p>3 when the transaction was completed.</p> <p>4 Q. So Mr. McFadden, did he work</p> <p>5 on generic projects too, or was it just</p> <p>6 OTC?</p> <p>7 A. He worked on overall corporate</p> <p>8 strategies -- you know, branding of the</p> <p>9 name Teva. He worked on OTC strategies.</p> <p>10 You know, what would Teva look like in the</p> <p>11 future. Very, you know,</p> <p>12 hundred-thousand-square-foot strategies of</p> <p>13 the future of Teva.</p> <p>14 Q. And did that involve generic</p> <p>15 pharmaceutical products?</p> <p>16 A. He did very -- if anything, on</p> <p>17 pharmaceutical products, no.</p> <p>18 Q. So he was just OTC, primarily?</p> <p>19 A. He had the OTCs reporting in,</p> <p>20 and he was working on more strategy than</p> <p>21 products.</p> <p>22 Q. So "OTC," that means "over-the</p> <p>23 counter"; right?</p> <p>24 A. Yes.</p>

1 Q. And what OTC drugs  
2 specifically was he handling?

3 A. We had Plan B One-Step. We  
4 had all of our private-label nicotine gum.  
5 We had some private-label creams and  
6 ointments. We had some cough syrups,  
7 ibuprofen.

8 Q. Okay. And then we have -- is  
9 it Isi --

10 A. Isi.

11 Q. Isi Agbato?

12 A. Isi Agbato.

13 Q. And is it male or female, Isi?

14 A. It's a she, female.

15 Q. And she's senior director, new  
16 product introduction planning.

17 Did that involve generic  
18 products?

19 A. That is correct.

20 Q. And so what was her specific  
21 function?

22 A. She worked with portfolio  
23 management, with regulatory, with legal,  
24 with operations, to prepare us to have

1 products available at the time of launch.

2 Q. All right. And moving over to  
3 Christine Baeder, she's senior vice  
4 president, customer and marketing  
5 operations, US generics.

6 What was her role with regard  
7 to your pharmaceutical generic products?

8 A. She took over marketing,  
9 pricing and -- marketing and pricing is  
10 what she took over for all of Rx. Customer  
11 service as well.

12 Q. What were her marketing  
13 functions?

14 A. Marketing was all of our  
15 forecasting for both financial forecasting  
16 as well as manufacturing operations  
17 forecasting.

18 Q. Was she involved at all in  
19 marketing strategy for generics?

20 MR. ERCOLE: Objection to form.

21 THE WITNESS: What's your  
22 definition of "marketing strategy"?

23 BY MR. CRAWFORD:

24 Q. Well, coming up with ways to

1 grow the generic market for Teva and to  
2 increase product sales.

3 A. There really wasn't that kind  
4 of a marketing budget or marketing strategy  
5 associated with the company.

6 Q. So below her is Napoleon  
7 Clark. He's VP of marketing; right?

8 A. Yes.

9 Q. So what was his marketing  
10 function?

11 A. That really was all of our  
12 forecasting; new product launch  
13 forecasting, that was inline product  
14 portfolio forecasting, that was working  
15 with operations to make sure that we  
16 weren't going to go on back order, have the  
17 right amount of product in the right NDCs,  
18 so that we could support our -- have our  
19 good service levels. That all reported up  
20 through him.

21 Q. What's your definition of  
22 "marketing"?

23 MR. ERCOLE: Objection to form;  
24 vague.

1 THE WITNESS: On the brand  
2 side, I can't speak to. On the generic  
3 side, to me, marketing is really the  
4 forecasting of our product portfolio  
5 and -- and making decisions on, you  
6 know, what customers could go to go to  
7 when we launch a product.

8 BY MR. CRAWFORD:

9 Q. And what do you mean by  
10 "forecasting product portfolio"?

11 A. Well, when you have 3-, 4-,  
12 500 different products -- you know, when  
13 you asked me the traditional marketing of a  
14 brand, a brand marketing strategy is for  
15 one product. We have 3-, 4-, 500 products.

16 The most important thing about  
17 the generic industry is to have a  
18 consistent supply chain so that we can  
19 support our customers.

20 So that's what his team did a  
21 tremendous amount of, which was doing all  
22 of the forecasting that operations utilized  
23 to do their production forecasts.

24 Q. And then below Mr. Clark is a

1 Kevin Galownia?  
 2 A. Kevin Galownia.  
 3 Q. Senior director of pricing.  
 4 What was his function?  
 5 A. He was responsible for pricing  
 6 of our product portfolio.  
 7 Q. And pricing was part of your  
 8 way to stay competitive in the generic  
 9 market; correct?  
 10 MR. ERCOLE: Objection to form.  
 11 THE WITNESS: Well, I think  
 12 you've got two important aspects, one  
 13 in pricing and one is capability of  
 14 supply -- are probably the two most  
 15 important things in a generic business.  
 16 BY MR. CRAWFORD:  
 17 Q. What about product line,  
 18 having an expansive generic product line?  
 19 A. Well, if you're exclusive, it  
 20 doesn't matter whether you've got one  
 21 product or 600 products. If you've got the  
 22 only product on the market, you're going to  
 23 be able to sell it.  
 24 So the breadth of your

1 portfolio can sometimes help. If you look  
 2 at it today, the breadth of the  
 3 portfolio -- most companies are shrinking  
 4 their portfolio. So it just all depends on  
 5 what point in time you're talking about and  
 6 what the expectations are for the company.  
 7 Q. But when you go to  
 8 customers -- your customers are what?  
 9 Wholesalers? Retail pharmacies?  
 10 A. Not retail. Chain drugstores.  
 11 Q. Chain drugstores.  
 12 A. Today, it's three big  
 13 procurement organizations, as I spoke to  
 14 earlier today -- are the majority of the  
 15 business. And what you're going there is  
 16 with a price and a capability of supply.  
 17 Q. What about a product  
 18 portfolio? If you've got more product,  
 19 does that make you more attractive to a  
 20 smaller generic company that has fewer  
 21 products?  
 22 MR. ERCOLE: Object to form.  
 23 THE WITNESS: Today, no, I  
 24 don't think it does.

1 BY MR. CRAWFORD:  
 2 Q. What was the advantage Teva  
 3 saw in buying Actavis?  
 4 A. What they saw before the  
 5 transaction and after the transaction may  
 6 be very different, as you can see what  
 7 direction the company went.  
 8 Q. I mean before the transaction.  
 9 What was the purpose of buying Actavis?  
 10 A. They believed that --  
 11 MR. ERCOLE: Objection --  
 12 THE WITNESS: Go ahead.  
 13 MR. ERCOLE: Objection to form,  
 14 and I don't even believe he was at Teva  
 15 prior to the transaction, but . . .  
 16 THE WITNESS: I wasn't part of  
 17 the strategy of why they bought Actavis  
 18 and the price that they paid for it.  
 19 I think part of it was you saw  
 20 a consolidation on the procurement  
 21 side. And way before they purchased  
 22 Actavis, they had said that -- I forget  
 23 who it was that said it within the  
 24 organization -- that they thought that

1 the industry would be three big  
 2 manufacturers, three big wholesalers  
 3 and distributors and three big chains  
 4 someday in the future. And I think  
 5 that their original intent was to  
 6 possibly grow in order to have the same  
 7 leverage that our customers had on them  
 8 at the time.  
 9 BY MR. CRAWFORD:  
 10 Q. So they -- they bought them to  
 11 gain leverage on their customers, then;  
 12 right?  
 13 MR. ERCOLE: Objection to form;  
 14 calls for speculation. Again, he  
 15 wasn't at Teva at the time.  
 16 BY MR. CRAWFORD:  
 17 Q. Okay. But in your view,  
 18 that's -- I mean, you're a senior person in  
 19 the Teva organization right after the  
 20 merger; right?  
 21 A. Yeah, but the decision to buy  
 22 Actavis happened before I got there. The  
 23 reality is, is they were trying to match  
 24 leverage with leverage.

1 Q. What do you mean by  
2 "leverage"?

3 A. This was consolidating into  
4 bigger groups. They were under the  
5 impression -- somebody in their strategy  
6 organization was under the impression that  
7 they could do the same.

8 Q. So "leverage" meaning, if they  
9 became bigger and acquired Actavis, they  
10 could raise the prices of their drugs,  
11 potentially?

12 MR. ERCOLE: Objection to form.

13 THE WITNESS: Not true.

14 BY MR. CRAWFORD:

15 Q. So that wasn't any part, as  
16 far as your thinking, why the acquisition  
17 occurred, was so they could control price  
18 better?

19 A. No, you can't --

20 MR. ERCOLE: Objection to form,  
21 again; calls for speculation, lack of  
22 foundation, about what Teva was  
23 thinking prior to an acquisition where  
24 he wasn't even there.

1 THE WITNESS: Independent of  
2 Teva, you can't control price just  
3 because you're bigger. If there's  
4 four -- it's done on a  
5 product-by-product basis.

6 If there's four competitors on  
7 the product, you've got four  
8 competitors that are going to put a  
9 price out to the marketplace that  
10 you're going to have to compete  
11 against. If there's two players on the  
12 market on that particular product, then  
13 it's going to be a two-player market,  
14 and you're going to compete on price in  
15 those two players. If there's 15  
16 players on the market, then you're  
17 going to compete on price based upon 15  
18 players.

19 So it really -- the -- raising  
20 the prices I don't think was the  
21 expectation in any way, stretch or  
22 form.

23 BY MR. CRAWFORD:

24 Q. What about offering a bigger

1 product portfolio to the customers? Would  
2 that be a factor of why they might want to  
3 acquire Actavis?

4 MR. ERCOLE: Same objection;  
5 calls for speculation and asked and  
6 answered.

7 THE WITNESS: If you're trying  
8 to build a relationship with a company,  
9 that's probably the only thing of being  
10 a larger supplier would do, but they're  
11 still going to make a decision on  
12 price.

13 And it doesn't matter how many  
14 products you have in your portfolio;  
15 price will dictate whether they use one  
16 manufacturer or another as well as your  
17 capability of supply.

18 BY MR. CRAWFORD:

19 Q. So you testified that there  
20 was downward price pressure after you got  
21 to Teva; right?

22 A. Yes.

23 Q. Okay. And if there's downward  
24 price pressure, unless you sell more of a

1 drug, you're not going to make as much  
2 profit off the drugs; right?

3 MR. ERCOLE: Objection to form.

4 THE WITNESS: My personal  
5 opinion or Teva's opinion?

6 BY MR. CRAWFORD:

7 Q. Your personal opinion.

8 A. My personal opinion is you  
9 will never make up the value by selling  
10 more product at a lower price.

11 Q. But certainly the goal of the  
12 company is to sell more product; right?

13 A. Goal of the company should be  
14 to maximize -- my opinion, should be to  
15 maximize the value of your assets. I'm  
16 willing to take less units and less market  
17 share at a higher price.

18 Q. Okay. So did the company ever  
19 have any kind of strategy of trying to  
20 increase sales of its generic products?

21 MR. ERCOLE: Objection to form;  
22 lack of any temporal scope, vague.

23 BY MR. CRAWFORD:

24 Q. At Teva?



1 A. The objective of any sales  
2 organization or any sales and marketing  
3 organization is to maximize the value of  
4 their assets. So whether it is more volume  
5 at a higher price, less volume -- or higher  
6 volume at a lower price, every product  
7 you're trying to maximize the value of the  
8 assets.

9 So I don't know that that was  
10 what the focus of the business was.

11 Q. Well, wouldn't one goal to be  
12 to maximize profits too, not just the value  
13 of the assets; right?

14 MR. ERCOLE: Objection to form.

15 THE WITNESS: Well, when I say  
16 "assets," I'm talking about profits.  
17 I'm willing to take less volume at a  
18 higher price if overall it makes better  
19 business sense.

20 BY MR. CRAWFORD:

21 Q. Right. So does volume play  
22 any role at all in any kind of strategy to  
23 try to grow your profits?

24 MR. ERCOLE: Objection to form;

1 hypothetical.

2 THE WITNESS: On a  
3 product-by-product basis, it's -- every  
4 product you're making a different  
5 decision on. So if you're asking me,  
6 overall, if I -- if I had more volume,  
7 would I be more profitable? The answer  
8 is not necessarily. In fact, it might  
9 be less profitable.

10 BY MR. CRAWFORD:

11 Q. Did Teva ever use -- or  
12 Actavis, rather, when you were at  
13 Actavis -- did they ever use their  
14 customers -- their wholesaler customers,  
15 like McKesson, to help them market their  
16 products?

17 MR. ERCOLE: Objection to form.

18 THE WITNESS: What do you mean  
19 by "market"?

20 BY MR. CRAWFORD:

21 Q. Well, for instance, would  
22 Actavis ever enter into any kind of  
23 agreements or arrangement with McKesson  
24 where they would kind of actively promote

1 Actavis products, for a fee or for some  
2 type of cost?

3 MR. ERCOLE: Same objection.

4 THE WITNESS: The wholesalers  
5 in general are responsible for what I  
6 would call source programs, where they  
7 signed up a lot of independent  
8 pharmacies, and they were the exclusive  
9 supplier to those independent  
10 pharmacies.

11 So, you know, what they were  
12 doing from a marketing standpoint, I  
13 can't tell you on a day-in and day-out  
14 basis.

15 Had we done in the past, you  
16 know, "product now available" for their  
17 program, they may have pushed something  
18 out that way. But I'm not sure that  
19 they were, in my mind, considered a  
20 marketing arm of the generic company,  
21 no.

22 BY MR. CRAWFORD:

23 Q. So you never heard of them  
24 using their online portals to push Actavis

1 products or doing fax blasts to their  
2 pharmacy customers about Actavis products  
3 or -- or trying to do a telephone campaign  
4 for their products? Have you heard of any  
5 of that?

6 MR. ERCOLE: Objection to form;  
7 vague, compound, no temporal scope.

8 You can answer if you know.

9 THE WITNESS: They may have  
10 done those, but I'm not -- I don't  
11 think they were on behalf of Actavis.  
12 They were on behalf of themselves to  
13 get the product out to the market so  
14 that they could create their own value.

15 BY MR. CRAWFORD:

16 Q. So McKesson or wholesalers  
17 never entered into any kind of contractual  
18 arrangement with Actavis to feature or push  
19 their products through these means?

20 A. You'd have to go back --

21 MR. ERCOLE: Objection to form.

22 THE WITNESS: You'd have to go  
23 back and ask my team. I'm not aware of  
24 us sitting there pushing products

1 specifically for Actavis. Their portal  
2 was used not for Actavis. It was used  
3 to push their overall program, their  
4 source program.

5 So how they utilized that -- I  
6 wasn't on any of those so-called email  
7 blasts that you mentioned, so I don't  
8 know the exact -- you know, the exact  
9 utilization of those.

10 BY MR. CRAWFORD:

11 Q. Well, I wasn't asking if you  
12 were on an email blast. I was asking if  
13 your company -- your department ever  
14 entered into any contractual arrangements  
15 to have them featuring the Actavis products  
16 in an email blast to their customers, not  
17 you.

18 A. You'd have to ask my team.

19 Q. Who on your team would be  
20 involved in that at Actavis?

21 A. I would say either the  
22 salesperson or the marketing people.  
23 Probably the salespeople would know more so  
24 than --

1 Q. Who were your marketing people  
2 reporting to you at Actavis?

3 A. It would be Napoleon Clark's  
4 team. But my gut tells me it would have  
5 been the -- the salespeople would have  
6 known that --

7 Q. Okay.

8 A. -- and/or the inside marketing  
9 managers that reported to Napoleon Clark.

10 Q. Who were the salespeople?  
11 Were they -- at Actavis? Were they divided  
12 by region, or were they national and  
13 divided by specialty, or how was that  
14 organized?

15 A. They were national account  
16 directors, and they were mostly separated  
17 out kind of by region, wherever possible,  
18 but more so by customer.

19 Q. Okay. So -- and what would  
20 the sales representatives -- what was their  
21 function in the sales and marketing  
22 department?

23 A. Negotiate product pricing and  
24 new opportunities.

1 Q. Okay. And what do you mean by  
2 "new opportunities"?

3 A. So as we were launching new  
4 products, they would bring it to Cardinal  
5 or AmerisourceBergen or McKesson, or if at  
6 the time it was the procurement WBAD or  
7 ClarusONE or Red Oak, they would be the  
8 ones that would bring those opportunities  
9 to those procurement organizations and  
10 offer up, "This is the price we're willing  
11 to offer you for whatever utilization you  
12 may or may not have, if we're capable of  
13 supplying it."

14 Q. So pricing was your main  
15 marketing strategy to get customers then;  
16 right?

17 A. I would say pricing used to be  
18 the most important aspect of getting new  
19 business.

20 Q. And used to be. What is it  
21 now?

22 A. I would say --

23 MR. ERCOLE: Objection to form;  
24 relevance.

1 THE WITNESS: I would say  
2 supply chain. There's been so many  
3 shortages in the marketplace that a  
4 combination of price and capability of  
5 supply, which was always important --  
6 quality and supply chain capabilities  
7 were always important. It's become  
8 even more important today.

9 BY MR. CRAWFORD:

10 Q. And what would disrupt supply  
11 chains in the generic market?

12 A. Oh, FDA inspections, API  
13 problems, intermediary problems coming from  
14 other countries, manufacturing -- you know,  
15 issues with your own equipment. There's a  
16 whole host of things that could change.

17 Q. What do you mean by "API"?

18 A. The active pharmaceutical  
19 ingredient, the raw materials, are usually  
20 manufactured outside of the -- outside of  
21 the manufacturer. There are some that are  
22 vertically integrated, but a lot of them  
23 are not, and they rely upon other companies  
24 to supply the raw materials in order to

1 manufacture the products.  
 2 MR. CRAWFORD: Mark the next  
 3 exhibit here, 1621.  
 4 BY MR. CRAWFORD:  
 5 Q. So actually -- I'll take that  
 6 back. Pull out Exhibit 6.  
 7 Let's go to -- I know this has  
 8 already been covered to some degree, but  
 9 let's go to the fourth page. I had a  
 10 couple of questions on this.  
 11 And shows your Q4 forecast  
 12 contribution of 18.4 percent QoQ. I just  
 13 want to look at that last column, "2014F."  
 14 A. Which one are you on? I'm  
 15 sorry. Excuse me. Which one? This one  
 16 here?  
 17 Q. Are you sure that's the right  
 18 one?  
 19 A. Is this the one?  
 20 Q. Yeah, I don't think so.  
 21 A. Okay. 18.4 percent QoverQ. I  
 22 got it.  
 23 Q. Okay. Okay. You got it.  
 24 A. Yep.

1 A. You haven't asked me what the  
 2 definition of "selling and marketing" is.  
 3 Q. But I'm --  
 4 A. The definition of "selling and  
 5 marketing" in there --  
 6 Q. Right.  
 7 A. -- is all of our distribution,  
 8 all of our freight, all of our insurance,  
 9 all of our pharma fees.  
 10 The actual selling and  
 11 marketing that you're looking for, for the  
 12 cost of our sales rep, travel and  
 13 entertainment, what you would consider to  
 14 be brand marketing, is a fraction of that  
 15 67 and a half million dollars.  
 16 MR. CRAWFORD: Move to strike  
 17 as nonresponsive.  
 18 MR. ERCOLE: I'm going to  
 19 object. You asked the question,  
 20 so . . .  
 21 BY MR. CRAWFORD:  
 22 Q. I'm just asking that -- there  
 23 is a line item that says "Selling &  
 24 marketing." They're deducting out 67 and a

1 Q. I just have a truncated  
 2 version of it.  
 3 A. Yeah.  
 4 Q. Okay. So the last column  
 5 basically is the -- are the dollar numbers  
 6 for the whole year for 2014; correct?  
 7 A. Yes.  
 8 Q. Okay. Net revenue is close to  
 9 \$4 billion from -- is that from your  
 10 generic US sales; correct?  
 11 A. That is correct.  
 12 Q. And then your gross profit  
 13 less selling is 2,388. That is  
 14 \$2.388 billion; correct?  
 15 A. That's correct.  
 16 Q. So what it's subtracting out  
 17 is selling and marketing, and that number  
 18 is \$67.5 million; correct?  
 19 MR. ERCOLE: Objection to form.  
 20 THE WITNESS: That is correct.  
 21 BY MR. CRAWFORD:  
 22 Q. Okay. So that's the cost of  
 23 selling and marketing your US generic  
 24 drugs; right?

1 half million dollars; correct?  
 2 MR. ERCOLE: Objection to form.  
 3 THE WITNESS: That's not --  
 4 that's not strictly selling and  
 5 marketing.  
 6 BY MR. CRAWFORD:  
 7 Q. Okay. So you disagree with  
 8 that line?  
 9 A. I disagree with the title of  
 10 the line and the context that you're using  
 11 it in.  
 12 Q. Moving down, it says, "Gross  
 13 margin - products." So that means the  
 14 gross margin, 61.2 percent, is  
 15 essentially -- tell me what that figure is.  
 16 A. That would be your revenues  
 17 minus your cost of sales --  
 18 Q. So basically, you're  
 19 getting --  
 20 A. -- as a percentage.  
 21 Q. -- 61 percent return off your  
 22 cost of sales; is that what that means?  
 23 A. Without any of the other  
 24 reductions to gross profit, yes.

<p style="text-align: right;">Page 305</p> <p>1 Q. Okay. That's all I have on 2 that. 3 Does -- when you were at Teva, 4 does Teva put its profits ahead of customer 5 safety, of patient safety? 6 MR. ERCOLE: Objection to form; 7 argumentative. 8 THE WITNESS: Are you asking me 9 my opinion? 10 BY MR. CRAWFORD: 11 Q. Sure. 12 A. Absolutely not. 13 Q. So Teva sold and sells 14 high-risk opioid products; correct? 15 MR. ERCOLE: Objection to form. 16 THE WITNESS: Teva sells 600 17 different generic -- or at this point, 18 maybe 700 different generic products 19 into the marketplace, including 20 opioids. 21 BY MR. CRAWFORD: 22 Q. All right. But after the 23 Actavis purchase, it had over 10 percent of 24 the opioid market; correct?</p>	<p style="text-align: right;">Page 306</p> <p>1 A. I don't know the answer to 2 that. 3 Q. But you saw a document that 4 indicated that; correct? 5 MR. ERCOLE: Objection to form. 6 If you want to show him the document, 7 go ahead and show it to him. 8 THE WITNESS: You know, 9 exactly. I don't know what the number 10 is. 11 BY MR. CRAWFORD: 12 Q. Are you aware of what the 13 percentage of the opioid market is generic 14 product? 15 MR. ERCOLE: Objection to form; 16 no temporal scope. 17 THE WITNESS: Sorry. I said 18 greater than 85 percent. I think 19 somebody threw out a number of 20 96 percent, but I don't have anything 21 to show that. 22 BY MR. CRAWFORD: 23 Q. All right. And opioids are a 24 Class II, Schedule II product with the DEA;</p>
<p style="text-align: right;">Page 307</p> <p>1 correct? 2 A. I believe, at this point in 3 time, opioids are a CII, yes. 4 Q. Okay. And what I want to ask 5 is who, in your view, is primarily 6 responsible for informing doctors of the 7 proper use and risks associated with opioid 8 products? 9 MR. ERCOLE: Objection to form. 10 THE WITNESS: My opinion was 11 the branded manufacturers that detailed 12 products were the first line of 13 communicating features and benefits to 14 physicians. Not knowing what any of 15 them communicated and what the outcomes 16 were, I can't speak to it, but that to 17 me was the -- that those -- that's how 18 the markets were created for opioids. 19 BY MR. CRAWFORD: 20 Q. Do you believe that a generic 21 opioid manufacturer has any duty or 22 responsibility to inform doctors of the 23 proper use and risks of their drugs? 24 MR. ERCOLE: Objection to form;</p>	<p style="text-align: right;">Page 308</p> <p>1 calls for legal conclusion. 2 THE WITNESS: Aside from what 3 the FDA has required for the risk -- 4 risk management's programs that are 5 consistent with what the brands are, 6 aside from DEA compliance which are 7 regulations that require us to operate 8 in a certain manner, to me, that is -- 9 that is what the generic companies are 10 truly responsible for, to meet those 11 guidelines and ensure that that's 12 happening in a proper manner. 13 BY MR. CRAWFORD: 14 Q. So your view is that the 15 generic manufacturers -- their only 16 requirement to ensure that doctors are 17 properly informed about safe use and risks 18 drugs are if the DEA or the FDA require it? 19 MR. ERCOLE: Objection to form. 20 THE WITNESS: The market for 21 opioids or any other branded product 22 are created by those that detail the 23 physicians. That is not something that 24 the generic companies have ever done.</p>

<p style="text-align: right;">Page 309</p> <p>1 We do not supply features or</p> <p>2 benefits to physicians in order to</p> <p>3 promote our products. Those markets</p> <p>4 were already created.</p> <p>5 BY MR. CRAWFORD:</p> <p>6 Q. Okay. So if -- if the opioid</p> <p>7 market now is dominated by generics;</p> <p>8 correct?</p> <p>9 MR. ERCOLE: Objection to form.</p> <p>10 THE WITNESS: According to your</p> <p>11 numbers, yes.</p> <p>12 BY MR. CRAWFORD:</p> <p>13 Q. So at that point, does the</p> <p>14 pendulum shift and does the generic have</p> <p>15 any responsibility -- setting aside what</p> <p>16 the FDA mandates or requires -- to go out</p> <p>17 and make sure that doctors are properly</p> <p>18 informed about the safe use of their drugs,</p> <p>19 the drugs that those generic manufacturers</p> <p>20 make?</p> <p>21 MR. ERCOLE: Objection to form;</p> <p>22 compound, vague, calls for a legal</p> <p>23 conclusion.</p> <p>24 THE WITNESS: Yeah, that's not</p>	<p style="text-align: right;">Page 310</p> <p>1 my area of responsibility. I think all</p> <p>2 of these markets were created by the</p> <p>3 branded companies. And the generic</p> <p>4 companies don't dispense, we don't</p> <p>5 write the scripts, you know, we didn't</p> <p>6 have any plan in that. And I think</p> <p>7 that if -- you know, if the FDA or some</p> <p>8 other entity believes that there should</p> <p>9 be additional work done in order to</p> <p>10 ensure safety and so on with</p> <p>11 physicians, then we should look at</p> <p>12 doing that. But that's not the way it</p> <p>13 is today.</p> <p>14 BY MR. CRAWFORD:</p> <p>15 Q. So -- but Teva and Actavis had</p> <p>16 ways to communicate with physicians if they</p> <p>17 wanted to, to communicate safety</p> <p>18 information. They could write a Dear</p> <p>19 Doctor letter or they could send a</p> <p>20 representative out to talk to the doctor if</p> <p>21 they become aware that doctors don't</p> <p>22 understand the proper use of the drugs,</p> <p>23 right?</p> <p>24 MR. ERCOLE: Objection to form.</p>
<p style="text-align: right;">Page 311</p> <p>1 Are you talking -- vague. Are you</p> <p>2 talking generics, nongenerics?</p> <p>3 If you can answer that --</p> <p>4 BY MR. CRAWFORD:</p> <p>5 Q. Doctors are --</p> <p>6 MR. ERCOLE: Hold on. If you</p> <p>7 can answer the question, feel free to</p> <p>8 try and answer the question.</p> <p>9 THE WITNESS: Doctors are</p> <p>10 writing products because they know</p> <p>11 about the branded product. So they're</p> <p>12 not writing it because they don't know</p> <p>13 anything about the product. So the</p> <p>14 only way they would have gotten</p> <p>15 information about the product would</p> <p>16 have had to be from a branded company.</p> <p>17 They were never given any features or</p> <p>18 benefits or detailed by a generic</p> <p>19 company.</p> <p>20 So if they're writing for it,</p> <p>21 and they're writing for it and they</p> <p>22 don't know what they're writing for, I</p> <p>23 don't know how you can expect a generic</p> <p>24 company to educate them. They</p>	<p style="text-align: right;">Page 312</p> <p>1 shouldn't have been writing for the</p> <p>2 product to begin with. But that was</p> <p>3 created by the brand organizations.</p> <p>4 BY MR. CRAWFORD:</p> <p>5 Q. So now that the doctor doesn't</p> <p>6 know how to properly use it and prescribe</p> <p>7 it, you guys, the generics, just come in</p> <p>8 and fill the void and sell it?</p> <p>9 MR. ERCOLE: Objection to form;</p> <p>10 calls for speculation, among other</p> <p>11 things.</p> <p>12 THE WITNESS: You're telling me</p> <p>13 they don't know how to write it or they</p> <p>14 understand it. I don't know that.</p> <p>15 BY MR. CRAWFORD:</p> <p>16 Q. I'm just using your words.</p> <p>17 You said that they may not know.</p> <p>18 A. I don't know.</p> <p>19 Q. And you said there were --</p> <p>20 A. I don't deal with physicians.</p> <p>21 I have no idea what they know or don't</p> <p>22 know. I don't -- I don't interact with</p> <p>23 physicians.</p> <p>24 Q. So --</p>



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1 A. So I would have no way of  
2 knowing.  
3 Q. So do you view it as any --  
4 your -- your -- you work for a generic  
5 company right now; does Amneal have any  
6 branded products?  
7 MR. ERCOLE: Objection to form.  
8 THE WITNESS: Yes.  
9 BY MR. CRAWFORD:  
10 Q. All right. But you're -- when  
11 you were at Teva, you were head of the  
12 generic department; right?  
13 A. Yes. And I'm still head of  
14 generics.  
15 Q. Okay. So at Teva, there were  
16 generic opioids that were marketed and sold  
17 through your department; correct?  
18 A. That is correct.  
19 Q. Okay. So do you view your  
20 department as having any responsibility to  
21 educate doctors about the proper use of  
22 their drugs outside of what the FDA tells  
23 you, if you become aware that they're not  
24 properly using your drugs?

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1 products. I don't want any of our  
2 products to be misused, whether it's an  
3 opioid, an oral contraceptive, a -- you  
4 know, a cough and cold medicine,  
5 anything. I don't want anything to be  
6 misused.  
7 BY MR. CRAWFORD:  
8 Q. So you're --  
9 A. And we sell a lot more than --  
10 a lot more than opioids in the marketplace,  
11 and I can't tell you if the physicians are  
12 using them properly or not.  
13 Q. So you equate an opioid with a  
14 cough and cold medicine, as far as risks  
15 and dangers?  
16 MR. ERCOLE: Objection to form;  
17 argumentative.  
18 Go ahead. If you can answer  
19 the question, feel free.  
20 THE WITNESS: I'm not equating  
21 anything. I'm saying we had 600  
22 products. There's cholesterol-lowering  
23 medications. There's blood pressure  
24 medications. There's organ transplant

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1 MR. ERCOLE: Objection to form.  
2 THE WITNESS: I would say that  
3 I'm not in the business -- I feel --  
4 you know, I feel compassionate for the  
5 opioid problem that exists right now,  
6 but to think that the generic companies  
7 have the capacity to go out and detail  
8 physicians on products they were  
9 already detailed on by the branded  
10 organizations that created these  
11 marketplaces is just not within our  
12 capabilities.  
13 I had six or seven salespeople.  
14 I had two or three marketing people  
15 that were responsible for forecasting.  
16 I'm not responsible for the marketing  
17 efforts that you're talking about.  
18 BY MR. CRAWFORD:  
19 Q. Yeah, but you're selling a  
20 very high-risk opioid narcotic product at  
21 Teva; right?  
22 MR. ERCOLE: Objection to form;  
23 argumentative.  
24 THE WITNESS: I sold 600

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1 drugs. There's opioids. There's oral  
2 contraceptives. We marketed all of  
3 those therapeutic areas in the context  
4 of offering a price and trying to get  
5 more market share.  
6 So I don't know that you're  
7 equating one to another. But all I'm  
8 saying is, is that's the -- that's the  
9 generic market. I wouldn't want any of  
10 those products to be misused.  
11 BY MR. CRAWFORD:  
12 Q. You said you had six or seven  
13 salespeople. Why couldn't you hire more  
14 salespeople to go out and properly educate  
15 doctors?  
16 MR. ERCOLE: Objection -- I'm  
17 sorry. I need to keep doing this to  
18 create a record.  
19 Objection to the form;  
20 argumentative, vague, temporal scope.  
21 Go ahead.  
22 BY MR. CRAWFORD:  
23 Q. I'm talking about at Teva.  
24 A. It would be cost-prohibitive

1 for us to do that. The branded companies  
 2 have thousands of sales representatives  
 3 calling on physicians. It is physically  
 4 impossible for a generic company to hire  
 5 enough sales representatives to go in and  
 6 speak to physicians about all of our  
 7 generic products.  
 8 Q. But we --  
 9 A. There wouldn't be a generic  
 10 market if we did that.  
 11 Q. But --  
 12 MR. ERCOLE: Let him finish his  
 13 answer before you start your next  
 14 question, if you don't mind. Thank  
 15 you.  
 16 BY MR. CRAWFORD:  
 17 Q. Are you finished?  
 18 A. Go ahead.  
 19 Q. Okay. We just looked at -- we  
 20 looked at Actavis' profits, gross profits  
 21 \$2.3 billion; correct?  
 22 A. Yeah.  
 23 Q. Why is that cost-prohibitive  
 24 to hire extra people to educate doctors --

1 information and -- and safety information;  
 2 right?  
 3 MR. ERCOLE: Objection to form.  
 4 THE WITNESS: That's your  
 5 opinion.  
 6 BY MR. CRAWFORD:  
 7 Q. But you're -- what about  
 8 yours? Do you have an opinion that there  
 9 is --  
 10 A. That's your opinion.  
 11 MR. ERCOLE: Objection to form;  
 12 asked and answered.  
 13 BY MR. CRAWFORD:  
 14 Q. Do you know if Teva or Actavis  
 15 ever utilized any methods available to them  
 16 to detail people or Dear Doctor letters or  
 17 anything to send to doctors to inform them  
 18 about proper use and risks regarding their  
 19 opioid products?  
 20 MR. ERCOLE: Hold on.  
 21 Objection to form; vague, doesn't  
 22 discuss whether we're talking about  
 23 generics, nongenerics and actually  
 24 calls for a legal conclusion.

1 MR. ERCOLE: Objection to form.  
 2 BY MR. CRAWFORD:  
 3 Q. -- given the amount of profit  
 4 that the company has made in that one year?  
 5 MR. ERCOLE: Objection to form.  
 6 THE WITNESS: What goes into  
 7 that cost, you're spending money on  
 8 R&D, you're spending money on  
 9 manufacturing facilities. Those pieces  
 10 aren't necessarily in the numbers  
 11 you're looking at. And then you're  
 12 asking them to hire, for 600  
 13 products -- as I look at it, if you had  
 14 a thousand representatives calling on  
 15 one brand product, and I've got 600,  
 16 then you've got to multiply a thousand  
 17 times 600 people -- that's 600,000  
 18 representatives that they can call on  
 19 600 different products. That's not  
 20 physically possible.  
 21 BY MR. CRAWFORD:  
 22 Q. Well, there are less expensive  
 23 ways, too, even simpler ways that you can  
 24 communicate with physicians risk

1 But go ahead.  
 2 MR. CRAWFORD: I'm talking  
 3 about generics.  
 4 THE WITNESS: I am not aware of  
 5 our generic organization's planning to  
 6 do any kind of detailing to physicians  
 7 for any of our products.  
 8 BY MR. CRAWFORD:  
 9 Q. What about, putting aside  
 10 detailing, stuff as simple as sending a  
 11 Dear Doctor letter or educational materials  
 12 about the proper use and safe use of their  
 13 generic opioid products? Have they ever  
 14 done that?  
 15 A. I'm not aware of it.  
 16 MR. ERCOLE: Objection to form.  
 17 -- --  
 18 (Teva-Boyer No. 022 was marked for  
 19 identification.)  
 20 -- --  
 21 BY MR. CRAWFORD:  
 22 Q. I'm going to mark an exhibit  
 23 that's already been marked as 15 and 16,  
 24 but this is actually a combined document of

<p style="text-align: right;">Page 321</p> <p>1 the email and the plan or summary on</p> <p>2 Suboxone. So this is a document</p> <p>3 Acquired_Actavis_01178982, an email from</p> <p>4 Jim Luce to Andrew Boyer, 2/15/13, about</p> <p>5 the BuNa marketing plan. And then it has</p> <p>6 the attachment, Buprenorphine &amp; Naloxone</p> <p>7 Shared Marketing Plan Summary.</p> <p>8 This was, I think, previously</p> <p>9 marked as 15 and 16, as separate documents.</p> <p>10 You agree that those go together; correct?</p> <p>11 This is what the email is referring to?</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 THE WITNESS: That's fine.</p> <p>14 BY MR. CRAWFORD:</p> <p>15 Q. And this was a -- Amneal had</p> <p>16 approached Actavis to jointly market their</p> <p>17 generic Suboxone product; correct?</p> <p>18 MR. ERCOLE: Hold on.</p> <p>19 Objection to form; asked and answered.</p> <p>20 You just spent 40 minutes with</p> <p>21 this document earlier. Now you're</p> <p>22 going to go back and ask the witness</p> <p>23 the same questions by a different</p> <p>24 person? I'm just -- is that what your</p>	<p style="text-align: right;">Page 322</p> <p>1 intent is to ask this witness the</p> <p>2 same -- different questions on the same</p> <p>3 document that your co-counsel just</p> <p>4 spend 40 minutes with earlier?</p> <p>5 MR. CRAWFORD: They'll be</p> <p>6 different questions, but definitely</p> <p>7 need to introduce the document again,</p> <p>8 so that's all I'm doing.</p> <p>9 THE WITNESS: So what are you</p> <p>10 asking?</p> <p>11 BY MR. CRAWFORD:</p> <p>12 Q. Okay. The question is: Is --</p> <p>13 just to refresh the jury's recollection,</p> <p>14 this was Amneal approaching Actavis to</p> <p>15 propose a joint marketing plan for their</p> <p>16 generic Suboxone products; right?</p> <p>17 MR. ERCOLE: Objection to form.</p> <p>18 THE WITNESS: I believe this</p> <p>19 was Amneal providing a document that</p> <p>20 they had spent money on to put together</p> <p>21 a marketing plan that they thought that</p> <p>22 they could utilize in the marketplace</p> <p>23 with -- this time it was, I guess,</p> <p>24 Actavis and whoever else was on the</p>
<p style="text-align: right;">Page 323</p> <p>1 product.</p> <p>2 BY MR. CRAWFORD:</p> <p>3 Q. Okay. So this was forwarded</p> <p>4 to your attention; correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And do you know if Actavis and</p> <p>7 Amneal, in fact, joined together to do</p> <p>8 joint marketing of their products?</p> <p>9 MR. ERCOLE: Objection to form.</p> <p>10 This question has been asked multiple</p> <p>11 times already.</p> <p>12 THE WITNESS: I answered it</p> <p>13 earlier. I said I don't believe it</p> <p>14 ever was implemented.</p> <p>15 BY MR. CRAWFORD:</p> <p>16 Q. And the generic Suboxone --</p> <p>17 Suboxone is an opioid dependency treatment;</p> <p>18 right? You've since seen documents that</p> <p>19 refresh your recollection that it's an</p> <p>20 opioid dependency treatment; right?</p> <p>21 MR. ERCOLE: Objection to form.</p> <p>22 Again, this has been asked and</p> <p>23 answered. I mean, I thought you just</p> <p>24 said you were going to ask new</p>	<p style="text-align: right;">Page 324</p> <p>1 questions.</p> <p>2 THE WITNESS: The one document</p> <p>3 said opioid dependence.</p> <p>4 BY MR. CRAWFORD:</p> <p>5 Q. All right. And what I want to</p> <p>6 ask here is, if you can go to page ending</p> <p>7 in 985, Page 3 of the attachment, this is a</p> <p>8 proposal, I believe, that Amneal is making</p> <p>9 to reach a physician audience with</p> <p>10 information about this generic Suboxone</p> <p>11 opioid dependency treatment drug; correct?</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 He's already testified.</p> <p>14 THE WITNESS: I guess so.</p> <p>15 MR. ERCOLE: Objection to form.</p> <p>16 If you can -- if you know the</p> <p>17 answer to the question, you can answer.</p> <p>18 THE WITNESS: I haven't read</p> <p>19 through it so -- yep, I'm assuming</p> <p>20 that's what you're saying.</p> <p>21 BY MR. CRAWFORD:</p> <p>22 Q. So the first line says,</p> <p>23 "Physicians and clinics on the DATA 2000</p> <p>24 [sic] list will be targeted."</p>

<p style="text-align: right;">Page 325</p> <p>1 So basically, drug companies</p> <p>2 like Actavis and Amneal do have access to</p> <p>3 physician lists where they can send</p> <p>4 information to them; correct?</p> <p>5 MR. ERCOLE: Objection to form;</p> <p>6 calls for speculation, vague.</p> <p>7 THE WITNESS: On the generic</p> <p>8 side, I don't know enough about what</p> <p>9 their access is or is not.</p> <p>10 This is a document, as I look</p> <p>11 through it, that was going to cost</p> <p>12 \$2 million to target physicians, I</p> <p>13 guess, for all of these different</p> <p>14 ideas. And you know, as you were</p> <p>15 asking before, if I've got 600 products</p> <p>16 and I'm going to spend \$2 million on</p> <p>17 each product for a finite amount of</p> <p>18 time to go to physicians, it's probably</p> <p>19 cost-prohibitive.</p> <p>20 But I don't know exactly what</p> <p>21 this ended up being. I don't think it</p> <p>22 was ever implemented. And I think the</p> <p>23 reason being was, it was</p> <p>24 cost-prohibitive and we just didn't</p>	<p style="text-align: right;">Page 326</p> <p>1 know enough about dealing with the</p> <p>2 physician marketplace, because that's</p> <p>3 not what we do.</p> <p>4 BY MR. CRAWFORD:</p> <p>5 Q. Well, there are ways -- I'm</p> <p>6 just trying to establish -- there are ways</p> <p>7 available to generic drug companies to</p> <p>8 communicate with doctors information about</p> <p>9 their products through some type of mass</p> <p>10 mailing or email list, and you referenced</p> <p>11 \$2 million, but there is a cost, but there</p> <p>12 are ways to do it; correct?</p> <p>13 MR. ERCOLE: Objection to form.</p> <p>14 THE WITNESS: I would ask</p> <p>15 somebody that's more adept in dealing</p> <p>16 with physicians of, where do they get</p> <p>17 data and how do they influence</p> <p>18 physicians. That is not something,</p> <p>19 from a generic standpoint, that I have</p> <p>20 an expertise in.</p> <p>21 BY MR. CRAWFORD:</p> <p>22 Q. Does anyone in your generic</p> <p>23 department have an expertise in how to</p> <p>24 communicate with physicians about their</p>
<p style="text-align: right;">Page 327</p> <p>1 drugs?</p> <p>2 A. No.</p> <p>3 MR. ERCOLE: Objection to the</p> <p>4 form.</p> <p>5 BY MR. CRAWFORD:</p> <p>6 Q. No?</p> <p>7 A. You would probably have to go</p> <p>8 to an outside consultant.</p> <p>9 Q. Did they have that at Teva?</p> <p>10 MR. ERCOLE: Hold on.</p> <p>11 Objection to form; vague.</p> <p>12 MR. CRAWFORD: I'm addressing</p> <p>13 it because I'm going to narrow it down.</p> <p>14 BY MR. CRAWFORD:</p> <p>15 Q. Teva, do they have any type of</p> <p>16 person or means available to communicate</p> <p>17 with physicians --</p> <p>18 A. Teva, when I was there?</p> <p>19 MR. ERCOLE: Hold on.</p> <p>20 BY MR. CRAWFORD:</p> <p>21 Q. -- about their generic</p> <p>22 products?</p> <p>23 MR. ERCOLE: Before you</p> <p>24 answer -- just let him finish his</p>	<p style="text-align: right;">Page 328</p> <p>1 question before you respond --</p> <p>2 THE WITNESS: Got it.</p> <p>3 MR. ERCOLE: -- and then let me</p> <p>4 object.</p> <p>5 Do you mind -- I apologize for</p> <p>6 that. I just wanted to -- do you mind</p> <p>7 reasking that question again? Thank</p> <p>8 you.</p> <p>9 BY MR. CRAWFORD:</p> <p>10 Q. Okay. My question was: Does</p> <p>11 anyone in your generic department have an</p> <p>12 expertise in how to communicate with</p> <p>13 physicians about their drugs? And you</p> <p>14 answered no.</p> <p>15 And I'm just clarifying: That</p> <p>16 was both at Teva and at Actavis; correct?</p> <p>17 MR. ERCOLE: Objection to form.</p> <p>18 THE WITNESS: I was at Teva in</p> <p>19 August of 2016. While I was there, I</p> <p>20 don't believe there was generic</p> <p>21 capabilities to discuss these type of</p> <p>22 things with physicians.</p> <p>23 BY MR. CRAWFORD:</p> <p>24 Q. And to communicate with them?</p>

1 A. That's correct. I don't  
2 believe so.  
3 Q. How about at Actavis? Were  
4 those capabilities within your generic  
5 department to do that about your generic  
6 drugs?  
7 A. I don't know if we had  
8 capabilities. I think that we would have  
9 required to use outside consultants to try  
10 and do something like that.  
11 Q. Okay. And are you aware of  
12 that ever being done at Actavis?  
13 A. Not while I was there.  
14 Q. How about --  
15 A. Again, I don't know if this  
16 buprenorphine -- I don't believe this ever  
17 existed. But I don't believe that it  
18 existed at Watson or Actavis, and I don't  
19 believe that it existed while I was at  
20 Teva.  
21 Q. So looking down at Page 3, it  
22 looks like some of the means that Amneal  
23 was proposing communicating with those  
24 doctors is fax marketing to the DATA 2000

1 BY MR. CRAWFORD:  
2 Q. Okay. So the third bullet  
3 down below "Media," he's suggesting an  
4 email marketing blast to doctors about the  
5 product; right?  
6 MR. ERCOLE: Objection to form;  
7 foundation.  
8 THE WITNESS: He's trying to  
9 get to email accounts that have been  
10 validated using DATA 2000, which I have  
11 no idea what that is.  
12 BY MR. CRAWFORD:  
13 Q. Well, at the top, he says,  
14 "Physicians and clinics on the DATA 2000  
15 list".  
16 So probably a list of  
17 physicians; right?  
18 MR. ERCOLE: Objection to form.  
19 THE WITNESS: You got to ask  
20 him. I don't know.  
21 BY MR. CRAWFORD:  
22 Q. All right. He's also  
23 suggesting direct mail -- combination of  
24 letters, self-mailers and postcards sent to

1 physician list; right?  
2 MR. ERCOLE: Objection to form.  
3 He's already testified that he doesn't  
4 know what this is about or even whether  
5 it was implemented or not.  
6 BY MR. CRAWFORD:  
7 Q. All right. Well, that's one  
8 thing that Amneal is suggesting. Would you  
9 agree with me there?  
10 A. This is a suggestion that came  
11 from Amneal or an outside consultant. I  
12 have no idea what it is.  
13 Q. Okay. And he's also  
14 suggesting email marketing to DATA 2000  
15 subset with validated email accounts.  
16 MR. ERCOLE: Objection to form;  
17 the document --  
18 BY MR. CRAWFORD:  
19 Q. You're suggesting that;  
20 correct?  
21 MR. ERCOLE: Objection to form;  
22 the document speaks for itself. Sorry.  
23 THE WITNESS: I don't know  
24 where you're looking.

1 physicians; right?  
2 So that would be one way to  
3 communicate with physicians, is send them  
4 something by direct mail; right?  
5 MR. ERCOLE: Objection to form.  
6 THE WITNESS: I think if you  
7 want to know about this document, you  
8 need to talk to Jim Luce, because he's  
9 closer to it than I was. This was just  
10 something that was sent to me. I don't  
11 know what the capabilities are. I  
12 don't know how successful it could be.  
13 I really don't know anything about it.  
14 BY MR. CRAWFORD:  
15 Q. But do you agree with me that  
16 direct mail to physicians was an option to  
17 you, at Actavis and Teva, to communicate  
18 with doctors about your generic drugs;  
19 right?  
20 MR. ERCOLE: Objection to form;  
21 calls for a legal conclusion, calls for  
22 speculation.  
23 If you can answer the  
24 question --



1 THE WITNESS: If you direct  
2 mail a million physicians and one of  
3 them reads your mail, it's not really a  
4 viable option. So I don't know -- you  
5 can always use direct mail; but if it's  
6 not being utilized, then it really  
7 wouldn't do you any good.

8 So, again, not knowing the  
9 program, not knowing what the success  
10 rates are, not knowing what people are  
11 utilizing, how they were utilizing the  
12 direct mail, it's impossible for me to  
13 take and communicate on this.

14 BY MR. CRAWFORD:

15 Q. Have you ever heard of a Dear  
16 Doctor letter?

17 A. Sure.

18 Q. What is a Dear Doctor letter?

19 A. It's a letter that's written  
20 to a physician.

21 Q. Generally, what's in a Dear  
22 Doctor letter?

23 A. That, I don't know.

24 Q. Does -- have you ever heard

1 the term of art "Dear Doctor letter" in the  
2 pharmaceutical world as being a letter  
3 written by a pharmaceutical drug company  
4 providing important risk or safety  
5 information about the drugs they sell?

6 A. Again, you'd have to ask the  
7 brand side of the business. I've never  
8 been -- that's not been my area of  
9 expertise or -- or where I've worked.

10 Q. Let's go to the next document  
11 here.

12 If you could pull Exhibit 15.  
13 I had a question about that. I'll wait for  
14 you to pull it out there.

15 Okay. This was the email --  
16 March 27th, 2013 email from David Myers  
17 to you and Napoleon Clark.

18 Again, who is David Myers?

19 A. David Myers was -- I don't  
20 know what his title was -- might have been  
21 a marketing manager.

22 Q. Okay.

23 A. He was a senior manager,  
24 products and communications, coming out of

1 the Actavis organization, reporting to  
2 Napoleon.

3 Q. And he's providing you the  
4 Bu/Na promotional outreach overview. This  
5 is about the efforts -- outreach efforts  
6 regarding your generic Suboxone product;  
7 correct?

8 MR. ERCOLE: Objection to form;  
9 asked and answered.

10 THE WITNESS: He's sending an  
11 email based upon the prior letter that  
12 we just looked at from Jim Luce, it  
13 looks like.

14 BY MR. CRAWFORD:

15 Q. And he's talking about "an  
16 update on the programs we are currently  
17 performing - and those we are considering -  
18 in support of our Buprenorphine/Naloxone  
19 sales efforts."

20 And the first point he's  
21 talking about is "joint promotion with  
22 Amneal (non-company-specific): Email and  
23 fax blasts to the DATA 2000 physicians."  
24 And he's got a schedule here: "Fax - 3/14,

1 Email - 3/20, Fax - 3/26, Email - 3/28."

2 So the company, in fact,  
3 according to this email, did enter into  
4 some kind of joint marketing effort with  
5 Amneal; right?

6 MR. ERCOLE: Objection to form.  
7 This has been asked and answered  
8 countless times. He's already  
9 testified that he doesn't believe  
10 that's the case.

11 Feel free to answer this  
12 question. If he asks the same question  
13 again, I'm going to instruct him not to  
14 answer it.

15 THE WITNESS: With that kind of  
16 a schedule, the answer is no. I would  
17 have known if we did that much going to  
18 market -- two, four, six, eight  
19 communications? The answer is no, this  
20 never went out.

21 BY MR. CRAWFORD:

22 Q. Okay. Well, it says, "Fax -  
23 3/14." The email is dated 3/24.

24 A. I just don't --

1 Q. Does he just not --  
 2 A. Maybe his schedule is off. I  
 3 don't remember any of this -- eight  
 4 opportunities for this to go out? I don't  
 5 remember it at all. You'd have to ask him.  
 6 Q. All right. So, I mean, is it  
 7 possible you're wrong, that that -- that,  
 8 in fact, these communications did take  
 9 place at Amneal?  
 10 MR. ERCOLE: Objection to form.  
 11 THE WITNESS: I would ask David  
 12 or Napoleon.  
 13 BY MR. CRAWFORD:  
 14 Q. Okay. All right. And then it  
 15 says, "Programs in-development (or being  
 16 considered)."  
 17 I think we went through this,  
 18 but there are ways here that you're  
 19 considering about reaching doctors  
 20 specifically about your generic products,  
 21 and that's including targeting mailers to  
 22 1900 high-prescribers of Suboxone. That's  
 23 the brand drug; right?  
 24 MR. ERCOLE: Objection to

1 marketing.  
 2 Q. And what's your position at  
 3 this time?  
 4 A. I was heading up all of  
 5 commercial, which was sales and marketing.  
 6 Q. So you had a top marketing  
 7 type position at the company above  
 8 Napoleon; right?  
 9 MR. ERCOLE: Objection to form.  
 10 THE WITNESS: That would be  
 11 correct for generics.  
 12 BY MR. CRAWFORD:  
 13 Q. And you have no idea if it's  
 14 possible to communicate with doctors  
 15 through these methods listed in this email?  
 16 MR. ERCOLE: Objection to form.  
 17 THE WITNESS: I spent zero part  
 18 of my career targeting physicians, so I  
 19 do not know anything about this.  
 20 BY MR. CRAWFORD:  
 21 Q. I don't think we marked this,  
 22 but if we did, then we'll just have a  
 23 redundant document. Exhibit 23.  
 24 - - -

1 form --  
 2 BY MR. CRAWFORD:  
 3 Q. You're able to find those  
 4 physicians and target them with this;  
 5 right?  
 6 MR. ERCOLE: Hold on.  
 7 Objection to form. Document  
 8 says what it says. He's answered these  
 9 questions already. There's no  
 10 foundation, given that he said he  
 11 doesn't know anything about this.  
 12 THE WITNESS: I don't know  
 13 enough about it. You're asking the  
 14 wrong person.  
 15 BY MR. CRAWFORD:  
 16 Q. So you're head of this  
 17 department here, this marketing department;  
 18 right?  
 19 A. No.  
 20 Q. At Actavis?  
 21 A. No.  
 22 Q. What's your position at the  
 23 time?  
 24 A. Napoleon was the head of

1 (Teva-Boyer No. 023 was marked for  
 2 identification.)  
 3 - - -  
 4 BY MR. CRAWFORD:  
 5 Q. I think we've seen documents  
 6 like this, but this is the -- or maybe  
 7 we've actually seen it. But this is the  
 8 Operations Planning Summit, dated  
 9 June 2nd, 2015, for Actavis; right?  
 10 MR. ERCOLE: Take a look  
 11 through the document.  
 12 MR. JOHNSON: Can you read the  
 13 Bates number, please?  
 14 MR. CRAWFORD: Sure. It is  
 15 TEVA\_MDL\_A\_09640874.  
 16 MR. JOHNSON: Thank you.  
 17 THE WITNESS: Okay.  
 18 BY MR. CRAWFORD:  
 19 Q. All right. Operations  
 20 planning summit -- I think we've talked  
 21 about these -- is that something that you  
 22 might attend or did attend in 2015?  
 23 A. I believe this was probably a  
 24 presentation that I did to our

1 manufacturing team.

2 Q. Okay. You did this to the  
3 manufacturing team. Okay, thank you.

4 And who is the manufacturing  
5 team? What was their function?

6 A. Manufacturing products.

7 Q. Okay. So you were -- where  
8 were they based, or where was the  
9 presentation?

10 A. All over the country and the  
11 world.

12 Q. Where do you think this  
13 presentation was done?

14 A. Probably in New Jersey.

15 Q. Okay. And what was the  
16 purpose of this presentation to the  
17 manufacturing team?

18 A. If I'm not mistaken, the  
19 manufacturing operations had a meeting --  
20 an internal meeting for themselves, and  
21 they asked me, as the head of commercial,  
22 to come and present to them regarding the  
23 marketplace.

24 Q. And why were they interested

1 in the marketplace?

2 A. So that they could know that  
3 all the hard work that they're doing are  
4 bringing safe and high-quality products on  
5 a regular basis to the market, they'd have  
6 an understanding of where the product was  
7 going and how the marketplace looked.

8 Q. All right. So let's go to  
9 Page 8 of this document. I think here -- I  
10 think we've seen charts like this.

11 So you were conveying to the  
12 marketing department that Actavis is the  
13 third largest US generics company; correct?

14 A. Yes, this was an IMS slide,  
15 and I took the IMS slide, as you can see  
16 from here, and I put it into my  
17 presentation.

18 Q. All right. And Teva's No. 1;  
19 right?

20 A. Teva was No. 1 at the time.

21 Q. And they acquired the Actavis  
22 generic entities, US ones -- or all of  
23 them, in 2016.

24 So they would stay No. 1 now,

1 having acquired Actavis in 2016; right?

2 MR. ERCOLE: Objection to form.

3 THE WITNESS: This was a moving  
4 annual total in December of '14. So  
5 two years later, you'd have to see what  
6 a new chart looks like, but I believe  
7 that they were No. 1 in 2016.

8 BY MR. CRAWFORD:

9 Q. All right. And then if you  
10 could go to Page 10. You're conveying here  
11 the top 15 products for Actavis in actual  
12 2014 sales; right?

13 A. Yes.

14 Q. All right. So -- and there  
15 are opioids listed on here, Class II or  
16 Schedule II opioids; right? Oxycodone and  
17 hydrocodone?

18 A. Yes.

19 Q. Right. Your annual sales of  
20 oxycodone were 93,400,000 and hydrocodone  
21 63,600,000 for 2014. Is that what that  
22 means?

23 A. That is correct.

24 Q. And also, too, it looks like

1 your Suboxone product, the generic product,  
2 buprenorphine and naloxone, has made the  
3 top 15 list this year; correct?

4 A. That is correct.

5 Q. And that, again, is an opioid  
6 dependency treatment drug; right?

7 A. I believe that's what was in  
8 the documents.

9 Q. And you were selling  
10 72 million dollars' worth of that generic  
11 opioid dependency treatment drug in 2014;  
12 correct?

13 A. That's what this looks like.

14 Q. So three of your top 15 drugs,  
15 two of them are the actual opioids that you  
16 were selling, and one of them is an opioid  
17 treatment; right?

18 MR. ERCOLE: Objection to form.

19 THE WITNESS: Remember, we  
20 had -- and this is Actavis at the  
21 time -- 300 products. So you're  
22 looking at 15 out of 300. And it just  
23 so happens that those three products,  
24 at this point in time, were in our top

1 15 products. But if you look at the  
2 top 3 or 4 or 5, they were 8, 9, 10  
3 times the size of the other ones that  
4 you're looking at.

5 BY MR. CRAWFORD:

6 Q. So, I mean, you were  
7 pushing -- pushing the generic Suboxone,  
8 the buprenorphine/naloxone pretty hard;  
9 right? I mean, you did do -- you made  
10 efforts to try to get this -- get the word  
11 out about it being available; right?

12 MR. ERCOLE: Hold on.

13 Objection to form, compound,  
14 mischaracterizes or -- you know,  
15 improper use of the word "push."

16 THE WITNESS: Yeah, it's a nice  
17 sound bite that you're trying to take  
18 and push across, but that's not the  
19 reality.

20 We sell 300 products in our  
21 portfolio, and all of these products,  
22 we spent time with our customers trying  
23 to drive our market share and our --  
24 maximizing the value of our assets.

1 Actavis?

2 A. That is correct.

3 Q. Okay. So at one point in  
4 time, had you heard of Actavis trying to  
5 get approval for a generic form of  
6 fentanyl -- or of Fentora?

7 A. I don't recall.

8 Q. You mentioned before RiskMAPs  
9 or REMS. Have you ever heard of those  
10 terms?

11 A. Yes.

12 Q. And you're aware that a number  
13 of Actavis products were subject to an  
14 FDA-mandated RiskMAP or REMS; correct?

15 A. Actavis when?

16 Q. Actavis while you were there,  
17 any time.

18 A. Well, can't be any time.  
19 Remember, we bought them at a certain point  
20 in time. So I don't know if, prior to the  
21 transaction of Watson buying Actavis, what  
22 they were working on, from a Fentora or any  
23 other risk management product.

24 So if you've got a point in

1 BY MR. CRAWFORD:

2 Q. So you're doing it for both  
3 your Class II, Schedule II opioids and your  
4 opioid treatment drugs; right? They made  
5 the top 15, three of them?

6 MR. ERCOLE: Objection to form;  
7 vague. I'm not sure what you mean by  
8 "it," but objection to form.

9 THE WITNESS: We don't detail  
10 products, as I've said before. These  
11 are not brands, these are generics. We  
12 offer up a price and we offer up a  
13 consistent supply in our supply chain  
14 and hopefully quality products, as said  
15 by the FDA. That's what we do.

16 There's no pushing, there's no  
17 detailing, there's nothing else there.

18 BY MR. CRAWFORD:

19 Q. Okay. Did Actavis, or Watson  
20 at the time, whatever they were called --  
21 Watson became Actavis; correct?

22 A. Watson changed its name to  
23 Actavis.

24 Q. Right. After it bought

1 time and a document that we're talking  
2 about, I'm more than happy to discuss it,  
3 but if not, I'm not exactly sure what  
4 you're asking.

5 Q. You've got a good point.

6 Whatever Watson or Actavis  
7 entity you were at, while you were at that  
8 entity, they had at that time, that entity,  
9 opioid products that were subject to a  
10 FDA-mandated RiskMAP or REMS; right?

11 MR. ERCOLE: Objection to form;  
12 compound, failure to distinguish  
13 between Actavis and Watson.

14 If you can answer the  
15 question . . .

16 THE WITNESS: There were  
17 RiskMAPs that were being developed or  
18 had been developed by the brand, and I  
19 can't necessarily speak to the generic,  
20 but they had to be a part of it at some  
21 point.

22 BY MR. CRAWFORD:

23 Q. So RiskMAPs generally, if  
24 there's one for the brand, there's got to

1 be one for the generic; right?  
 2 A. That's correct.  
 3 - - -  
 4 (Teva-Boyer No. 024 was marked for  
 5 identification.)  
 6 - - -  
 7 BY MR. CRAWFORD:  
 8 Q. So I will show you a  
 9 document -- Exhibit 24.  
 10 So this is a document  
 11 Acquired\_Actavis\_02051705. It is a  
 12 November 6th, 2009 email from Napoleon  
 13 Clark to a number of individuals, with  
 14 carbon copy to you; correct?  
 15 A. Yes.  
 16 Q. And it's regarding monitoring  
 17 programs - RiskMAPs; right?  
 18 A. That is correct.  
 19 Q. So Napoleon Clark, he reported  
 20 to you, as we discussed; right?  
 21 A. No, he reported to Diane  
 22 Miranda at this time.  
 23 Q. Okay. And then did she report  
 24 to you?

1 BY MR. CRAWFORD:  
 2 Q. What was the company called at  
 3 this time, Watson or Actavis?  
 4 A. Watson.  
 5 Q. Okay. So does this refresh  
 6 your recollection at the time that Watson  
 7 was trying to get approval of a generic  
 8 form of Fentora and that it would have had  
 9 to develop a RiskMAP program for the  
 10 generic version of the drug?  
 11 A. I don't know if this was done  
 12 as part of a forecast. I -- so it doesn't  
 13 refresh my memory at all. I don't know if  
 14 they already had it in development or if  
 15 they were thinking about putting together a  
 16 forecast to figure out if they should  
 17 develop it. From this, I can't tell. All  
 18 it's saying is that the RiskMAP would be  
 19 required if they did, and they started to  
 20 evaluate that. That's what it looks to me.  
 21 Q. And tell me what your  
 22 understanding of a RiskMAP is.  
 23 A. It's a Risk and mitigation and  
 24 whatever the acronym stands for -- usually

1 A. Diane reported to me.  
 2 Q. All right. Okay. And so he  
 3 writes, "Beth, Gary; As you're aware, we  
 4 have various products" -- did I give you  
 5 this? Okay, yeah -- "various products in  
 6 our portfolio and pipeline that require(d)  
 7 some time of monitoring program" -- I think  
 8 he means some type of monitoring program --  
 9 "as a component of the Risk management  
 10 program."  
 11 "Because these monitoring  
 12 activities are a requirement for us to  
 13 market the product, we (Marketing) sought  
 14 proposals from several Market Research  
 15 firms to conduct the primary and secondary  
 16 research activities. For your reference I  
 17 have attached two proposals for Next Choice  
 18 and gFentora."  
 19 So does this -- this is back  
 20 in 2009. Does this refresh your  
 21 recollection that at this time -- was it  
 22 Watson or Actavis at this time?  
 23 MR. ERCOLE: You mean Watson --  
 24 which Watson?

1 created by the branded companies, and a  
 2 generic company would need to match in  
 3 order to participate in the marketplace.  
 4 Q. Or come up with their own  
 5 program, right, if they're going to do a  
 6 generic; right?  
 7 MR. ERCOLE: Objection to form;  
 8 calls for a legal conclusion.  
 9 THE WITNESS: From a legal  
 10 standpoint, to your point, you'd have  
 11 to ask legal if you can do that, to  
 12 find a way to get around the brand  
 13 manufacturer's risk program and whether  
 14 it's cost-effective or cost-prohibitive  
 15 to do so. A lot of the REMS became  
 16 shared REMS because the generic  
 17 companies could not physically, on  
 18 their own, from the cost standpoint,  
 19 develop them themselves.  
 20 So I don't know what this is in  
 21 reference to, at the time, whether it  
 22 was before or after we started  
 23 developing a product or not, or if it  
 24 was part of just the evaluation to do



<p style="text-align: right;">Page 353</p> <p>1 so.</p> <p>2 BY MR. CRAWFORD:</p> <p>3 Q. Okay. Go back to the</p> <p>4 cost-prohibition. If the company ever</p> <p>5 thought it was too cost-prohibitive to</p> <p>6 institute safety programs to inform doctors</p> <p>7 about risks about a product, you didn't</p> <p>8 have to sell the product; right?</p> <p>9 MR. ERCOLE: Objection --</p> <p>10 BY MR. CRAWFORD:</p> <p>11 Q. Just not sell it.</p> <p>12 MR. ERCOLE: Objection to form.</p> <p>13 THE WITNESS: Yeah, it would</p> <p>14 have been part of the evaluation as to</p> <p>15 whether to commercialize or develop a</p> <p>16 product, at that point in time. You're</p> <p>17 right.</p> <p>18 BY MR. CRAWFORD:</p> <p>19 Q. Okay. So once you decide to</p> <p>20 sell a product, there are obligations to</p> <p>21 inform doctors in any way, that's -- you've</p> <p>22 got to absorb that cost; right?</p> <p>23 MR. ERCOLE: Objection to form;</p> <p>24 calls for a legal conclusion.</p>	<p style="text-align: right;">Page 354</p> <p>1 THE WITNESS: If you chose to</p> <p>2 commercialize a product upon approval</p> <p>3 and you can support a program that</p> <p>4 already exists out there, then you</p> <p>5 would look to do so. A lot of the</p> <p>6 cases, they were shared programs with</p> <p>7 the brand. In particular, one, to not</p> <p>8 create confusion for the patient or the</p> <p>9 pharmacist having multiple programs out</p> <p>10 there, and the generic company would</p> <p>11 buy into the risk program that already</p> <p>12 existed from the brand.</p> <p>13 BY MR. CRAWFORD:</p> <p>14 Q. Okay. So if you could go to</p> <p>15 Page 1714 -- it's kind of in the middle.</p> <p>16 This is a proposal, it appears, by</p> <p>17 Advantage Healthcare. "Revised Proposal,</p> <p>18 Risk Assessment Tracking Program for</p> <p>19 Fentanyl Citrate Buccal Tablets, (FCBT),"</p> <p>20 and it's dated October 16th, 2009.</p> <p>21 So is it your understanding,</p> <p>22 just looking at the email and looking at</p> <p>23 this attachment, that -- that Actavis or</p> <p>24 Watson at the time wanted to get their</p>
<p style="text-align: right;">Page 355</p> <p>1 fentanyl tablet approved, their generic</p> <p>2 version, but in order to do so, they had to</p> <p>3 have some type of risk management program</p> <p>4 in place, and they were contacting a</p> <p>5 third-party contractor to give them a</p> <p>6 proposal; right?</p> <p>7 A. I don't know the timelines of</p> <p>8 development, I don't know what the timeline</p> <p>9 for approval would have been, and I don't</p> <p>10 know if they're doing it on the front end</p> <p>11 before those things happened or after they</p> <p>12 already got their filing or their approval,</p> <p>13 and now they're trying to find out what</p> <p>14 it's going to cost to take and manage a</p> <p>15 program if they were to come to market. I</p> <p>16 don't know the timing of all of that.</p> <p>17 Q. Okay. So this is the</p> <p>18 proposal -- if you go to the first page, it</p> <p>19 does say:</p> <p>20 "Background/Objectives.</p> <p>21 "Watson Pharmaceuticals is</p> <p>22 currently in the process of developing a</p> <p>23 risk management program for their fentanyl</p> <p>24 citrate buccal tablet (FCBT), the generic</p>	<p style="text-align: right;">Page 356</p> <p>1 version of Cephalon's brand, Fentora."</p> <p>2 This is a highly potent opioid</p> <p>3 product; right? It's what -- the tablet</p> <p>4 that dissolves in your mouth, it's</p> <p>5 fentanyl-based.</p> <p>6 A. I know --</p> <p>7 MR. ERCOLE: Objection to form;</p> <p>8 compound. You can figure out which</p> <p>9 question you want to answer.</p> <p>10 BY MR. CRAWFORD:</p> <p>11 Q. Are you familiar with this</p> <p>12 product?</p> <p>13 A. I know very little about the</p> <p>14 product, other than it's fentanyl-based.</p> <p>15 Q. Okay. So it's an opioid?</p> <p>16 A. Yes.</p> <p>17 Q. And they're talking about:</p> <p>18 "The risk management program</p> <p>19 elements for FCBT will be similar to</p> <p>20 Cephalon's risk minimization action plan</p> <p>21 (RiskMAP) known as SECURE. The SECURE</p> <p>22 program focuses on 3 primary objectives;</p> <p>23 similar objectives will apply for Watson's</p> <p>24 risk management program and include:</p>

1 "Ensuring that patients and  
2 healthcare professionals understand that  
3 FCBT should only be used in opioid-tolerant  
4 patients with cancer."

5 So one of the objectives of  
6 the program would be to make sure  
7 healthcare professionals understand that  
8 it's only indicated under these conditions,  
9 including they have to be cancer patients;  
10 right?

11 MR. ERCOLE: Objection to form.

12 BY MR. CRAWFORD:

13 Q. Is that how you interpret  
14 that?

15 A. I don't know how to interpret  
16 that. But I'm assuming that's what that  
17 says. I don't know enough about the risk  
18 management program.

19 The only thing I would say is,  
20 to your point before, did we have the  
21 capabilities internally of communicating  
22 with physicians and understanding these  
23 things? This is clear that we did not have  
24 those capabilities internally and we had to

1 go to an outside company.

2 Q. Well, this is not about  
3 communicating, it's doing research; right?  
4 This is not --

5 A. But this is going to be part  
6 of communication.

7 Q. So --

8 A. This is research to  
9 communicate, and it's part of a risk --

10 MR. ERCOLE: Hold on, hold on,  
11 guys. Let me object. If you can let  
12 the witness finish answering, and if  
13 you can let plaintiff's counsel finish  
14 asking the question, it will make my  
15 life and the court reporter's life a  
16 lot easier. Thank you.

17 MR. CRAWFORD: Thank you.

18 BY MR. CRAWFORD:

19 Q. Go ahead.

20 MR. ERCOLE: Do you mind  
21 repeating the question, just so that  
22 the record is clear on that?

23 BY MR. CRAWFORD:

24 Q. If you want to take a look at

1 this document, this document is not about  
2 communicating with doctors about risks and  
3 informing them. It's more researching what  
4 doctors know about the messages and risks,  
5 so the company can then decide whether to  
6 take action; is that correct?

7 A. It says --

8 MR. ERCOLE: Objection to form.  
9 Basically trying to tell him what the  
10 document is and isn't.

11 MR. CRAWFORD: I'm just trying  
12 to see if he agrees.

13 THE WITNESS: One of the items  
14 here says "Internet survey. 50  
15 physicians, 50 pharmacists, 15 minutes  
16 each."

17 BY MR. CRAWFORD:

18 Q. Right.

19 A. So I'm assuming they're  
20 looking to access physicians.

21 Q. Right.

22 A. And there's an internet survey  
23 of 50 patients. So this is -- this is --  
24 they're going to do a survey, and they're

1 going to have access to physicians,  
2 pharmacists and patients.

3 Q. Right. But they're --

4 A. And all I'm saying to you is,  
5 is that we didn't have the expertise. We  
6 had to go to outside, to an outside  
7 consultant, to find out, you know, how to  
8 do those things.

9 Q. Right. And the consultant,  
10 though, they're not actually telling  
11 doctors of the risks. They're actually  
12 doing surveys to see what the doctors know.  
13 Is that what that is?

14 MR. ERCOLE: Objection to form.  
15 He's already testified he's not aware  
16 of the specifics.

17 THE WITNESS: I don't know  
18 about -- I'm talking about access. You  
19 were talking about -- before about the  
20 DATA 2000 and getting access to the  
21 information available and did we have  
22 the internal capabilities.

23 The answer I said to you was  
24 no. This is consistent with what I

1 said to you before. We didn't have  
2 internal capabilities to do these  
3 things. We went to outside  
4 consultants.

5 If that was the case in this  
6 particular instance to find out how to  
7 access 50 physicians, 50 pharmacists  
8 and 50 patients. That's what I was  
9 saying.

10 BY MR. CRAWFORD:

11 Q. So to develop the  
12 capabilities, you could either go to a  
13 third-party outside and utilize their  
14 resources to do that job, or you could  
15 bring on more people and then the people  
16 you had and develop your own program  
17 internally. Those were options, if you  
18 wanted to do that; correct?

19 MR. ERCOLE: Objection to form;  
20 no temporal scope, assumes facts, asked  
21 and answered. Go ahead.

22 THE WITNESS: No idea what the  
23 requirement would be to bring it  
24 internally. All I'm saying is, is that

1 we didn't have the expertise as a  
2 generic company.

3 BY MR. CRAWFORD:

4 Q. If you look here, the cost of  
5 this project -- if you look at Page 1720,  
6 and they're talking about reporting to you  
7 on -- on their work, the first year of cost  
8 is \$210,000, correct, plus or minus  
9 10 percent, to do this for this opioid  
10 product?

11 A. For this particular program,  
12 yes.

13 Q. And Year 2, it's \$196,000;  
14 correct?

15 MR. ERCOLE: Objection to form.  
16 I mean, the witness has already  
17 testified he's not aware of the  
18 specific details here.

19 MR. CRAWFORD: I'm just seeing  
20 what the document says.

21 THE WITNESS: That specific  
22 proposal, yes. I'm not sure what it  
23 entails, whether it meets the needs of  
24 the risk management program. That's

1 what this proposal says, though. I  
2 know nothing about it.

3 BY MR. CRAWFORD:

4 Q. In Year 3, it drops down to  
5 \$49,175, plus or minus 10 percent; correct?

6 A. Again, that's a program, and I  
7 don't know what the outcome is going to be,  
8 whether that's accurate or not, whether  
9 that meets the needs. I don't know enough  
10 about it.

11 Q. And are you aware if Watson or  
12 Actavis ever got approval of their generic  
13 fentanyl tablet?

14 A. I don't believe so.

15 Q. Okay. And are you aware  
16 Actavis, while you were -- whatever entity  
17 you were at, Watson or Actavis, they did  
18 have actual RiskMAP programs in place or  
19 REMS programs in place for some of their  
20 opioid products; correct?

21 A. I don't know at what point in  
22 time. I'm sure we had a risk management  
23 program on a particular product. I don't  
24 know if it was Plan B or if it was an

1 opioid. I don't know the answer off the  
2 top of my head --

3 Q. And these --

4 A. -- and I don't know the point  
5 in time.

6 Q. And these would have been  
7 plans only if they were required by the  
8 FDA, either you get approval or to maintain  
9 the drug on the market?

10 A. That is correct.

11 Q. Is there anything in your view  
12 that would have precluded or prevented  
13 Actavis at this time from utilizing some of  
14 these tools in these plans for their other  
15 opioid drugs, where it wasn't FDA required,  
16 utilizing them to communicate with doctors  
17 if they were not aware of -- if Actavis  
18 became aware that they weren't properly  
19 prescribing the drug?

20 MR. ERCOLE: I'm going to  
21 object to form. And I'm going to say  
22 all of these questions about what  
23 Actavis could or couldn't do implies  
24 legal conclusions that are, in fact,

<p style="text-align: right;">Page 365</p> <p>1 wrong as a matter of law.</p> <p>2 But if you can answer the</p> <p>3 question, feel free to go ahead and do</p> <p>4 so.</p> <p>5 THE WITNESS: So --</p> <p>6 MR. CRAWFORD: Hold on. I want</p> <p>7 to respond to that.</p> <p>8 You're incorrect that it's</p> <p>9 wrong as a matter of law. I vehemently</p> <p>10 disagree with that, but let the witness</p> <p>11 answer.</p> <p>12 THE WITNESS: Actavis at what</p> <p>13 point in time?</p> <p>14 BY MR. CRAWFORD:</p> <p>15 Q. At this point in time, in</p> <p>16 2009.</p> <p>17 Actavis had other opioids</p> <p>18 where there was no RiskMAP plan or no</p> <p>19 strategy to communicate with doctors about</p> <p>20 the risks; right?</p> <p>21 MR. ERCOLE: Objection to form.</p> <p>22 THE WITNESS: Actavis was not a</p> <p>23 part of the organization in 2009.</p> <p>24 BY MR. CRAWFORD:</p>	<p style="text-align: right;">Page 366</p> <p>1 Q. What do you mean by that?</p> <p>2 I'm talking about Actavis or</p> <p>3 Watson as the predecessor.</p> <p>4 A. Watson would have existed in</p> <p>5 2009. Actavis was not a part of the</p> <p>6 Watson/Actavis in 2009.</p> <p>7 Q. Let me rephrase it.</p> <p>8 So Watson at the time had</p> <p>9 other opioids in their portfolio that</p> <p>10 didn't have a RiskMAP plan, right --</p> <p>11 MR. ERCOLE: Objection to --</p> <p>12 BY MR. CRAWFORD:</p> <p>13 Q. -- Class II, Schedule II</p> <p>14 opioids?</p> <p>15 MR. ERCOLE: Objection to form.</p> <p>16 To the extent you know.</p> <p>17 THE WITNESS: I'm guessing the</p> <p>18 answer is yes.</p> <p>19 BY MR. CRAWFORD:</p> <p>20 Q. And is it your view or your</p> <p>21 understanding -- was there any impediment</p> <p>22 to Watson utilizing some of these RiskMAP</p> <p>23 tools to communicate with doctors for</p> <p>24 opioids where it wasn't required by the</p>
<p style="text-align: right;">Page 367</p> <p>1 FDA?</p> <p>2 MR. ERCOLE: Objection to form;</p> <p>3 calls for a legal conclusion.</p> <p>4 THE WITNESS: Regulatory and</p> <p>5 legal gave us criteria what we needed</p> <p>6 to do in order to commercialize</p> <p>7 products. That's approvals. That</p> <p>8 would be risk programs, if they</p> <p>9 existed. That would be when we can</p> <p>10 ship product, when we can't ship</p> <p>11 product. SOMS programs are all part of</p> <p>12 it.</p> <p>13 Beyond that, there wasn't any</p> <p>14 other evaluation independently by the</p> <p>15 commercial organization.</p> <p>16 BY MR. CRAWFORD:</p> <p>17 Q. So I'm just trying to think.</p> <p>18 How would a decision be made within Watson</p> <p>19 at this time about whether to approach</p> <p>20 doctors to inform them about risks and a</p> <p>21 proper use of their generic opioid</p> <p>22 products? How would that decision come</p> <p>23 about?</p> <p>24 A. I think --</p>	<p style="text-align: right;">Page 368</p> <p>1 Q. Does it come from legal and</p> <p>2 regulatory or sales and marketing?</p> <p>3 MR. ERCOLE: Hold on. I'm</p> <p>4 going to object and say, to the extent</p> <p>5 it involves disclosure of any legal</p> <p>6 communications, that would be</p> <p>7 privileged, and I would instruct you</p> <p>8 not to disclose that.</p> <p>9 But to the extent you can</p> <p>10 answer without disclosing the contents</p> <p>11 of any such communications, feel to do</p> <p>12 so.</p> <p>13 THE WITNESS: I would expect it</p> <p>14 would come from regulatory and legal.</p> <p>15 MR. CRAWFORD: I think that's</p> <p>16 all I have.</p> <p>17 MR. ERCOLE: Yeah, can we just</p> <p>18 take -- can we take a five-minute</p> <p>19 break, actually? Is that okay?</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 approximately 4:03 p m., and we're</p> <p>22 going off the record.</p> <p>23 (Recess taken from 4:03 p m. to</p> <p>24 4:13 p m.)</p>

1 THE VIDEOGRAPHER: We are back  
 2 on the record. The time is  
 3 approximately 4:13 p m.  
 4 EXAMINATION  
 5 BY MR. EGLER:  
 6 Q. Mr. Boyer, my name is Tom  
 7 Egler, and I represent plaintiffs in this  
 8 case, and I'm from a law firm called  
 9 Robbins Geller Rudman & Dowd in San Diego.  
 10 I'm going to hand you -- I got  
 11 a couple of questions right before we start  
 12 that -- just first about, how long did you  
 13 think about it -- did you plan or did you  
 14 take to prepare for today's deposition?  
 15 A. In total, probably about  
 16 five -- five hours plus.  
 17 Q. And did you meet with anybody  
 18 or talk with anybody about preparing for  
 19 today's deposition?  
 20 A. Not outside of legal counsel,  
 21 no.  
 22 Q. But you did talk with your  
 23 legal counsel about it?  
 24 A. Yes.

1 Siggi Olafsson.  
 2 Q. So let's go to the first page,  
 3 the very first page of the exhibit,  
 4 No. 566, this one.  
 5 A. Yeah.  
 6 Q. I want to ask you about this,  
 7 just so we can get it in context.  
 8 So you used email at your work  
 9 at Watson; is that right?  
 10 A. Yes.  
 11 Q. And did you ever print out an  
 12 email when you were at Watson?  
 13 A. I'm sure I did.  
 14 Q. Did it look like this, this  
 15 first page of Exhibit 25?  
 16 A. At that point in time, I have  
 17 no idea.  
 18 Q. And I'll represent to you that  
 19 this Exhibit 25 is what's referred to as a  
 20 family of documents that was produced to us  
 21 by counsel, so it's like an email and  
 22 attachments or something like that. So  
 23 this was all presented together as one  
 24 group of documents.

1 - - -  
 2 (Teva-Boyer No. 025 was marked for  
 3 identification.)  
 4 - - -  
 5 MR. EGLER: So I'm going to  
 6 hand you what we're going to mark as  
 7 Boyer 25 and --  
 8 MR. ERCOLE: I have copies.  
 9 MR. EGLER: Here's a copy for  
 10 you guys.  
 11 BY MR. EGLER:  
 12 Q. Can you look through what  
 13 we've marked as Exhibit Boyer 25. And as  
 14 you're looking through it, I'll read into  
 15 the record the Bates numbers. It's  
 16 ALLERGAN\_MDL\_034 -- let me start over --  
 17 03464566 through 597.  
 18 And I don't expect you to read  
 19 the whole thing. But as you look at this  
 20 document right now, can you tell me if you  
 21 remember ever seeing it before?  
 22 A. Yes. It looks like my budget  
 23 presentation, maybe myself or with my team,  
 24 to -- what was it, Siggi at the time --

1 So assuming this is an email,  
 2 with your name at the top, the next line  
 3 says, "Sent: Tuesday, November 15, 2011 at  
 4 5:35 a.m."  
 5 And the next line there says,  
 6 "To," and then it's "Sigurdur Olafsson"; is  
 7 that right?  
 8 A. Yes.  
 9 Q. So who is Mr. Olafsson?  
 10 A. He was the head of the generic  
 11 business for Watson at that time.  
 12 Q. So as you think about it,  
 13 around this time, mid-November 2011, where  
 14 was your office at Watson?  
 15 A. I believe -- I believe it was  
 16 in Parsippany, New Jersey.  
 17 Q. If it helps just to put it in  
 18 context, how long have you worked at -- or  
 19 how long -- when did you start working at  
 20 Watson?  
 21 A. 1998.  
 22 Q. And when did you first start  
 23 working at Parsippany at Watson?  
 24 A. I don't remember what year,



1 but I've worked in Livingston, Florham  
2 Park, Morristown, and Parsippany as a part  
3 of that Watson organization.

4 Q. And then when Watson bought  
5 Actavis, did you move?

6 A. No. So --

7 Q. When -- oh, go ahead.

8 A. So if -- I don't remember the  
9 exact date of the Actavis transaction, but  
10 I would have been in Parsippany at that  
11 point in time.

12 Q. When the combined  
13 Actavis/Watson's sold the generics to Teva,  
14 did you move offices then?

15 A. No.

16 Q. So you've been at Parsippany  
17 the whole time, since around 2011 -- let me  
18 start over.

19 When you worked at Watson,  
20 Actavis maybe Allergan and then Teva, that  
21 whole time did you work in Parsippany?

22 A. Whatever year we moved to  
23 Parsippany, I've been there -- I was there  
24 since, until I left the organization.

1 Parsippany for Watson, about -- as you  
2 think about the various organizations in  
3 the company, which organizations were on  
4 the second floor?

5 A. HR was on the second floor.  
6 Part of portfolio management was on the  
7 second floor. The generic commercial,  
8 customer service, financial administration  
9 or customer administration was all on the  
10 second floor.

11 Q. All right. So going down in  
12 this document, you state, or the subject is  
13 "Budget Presentation," and below that is --  
14 it says "2012 Proposed Generic Budget v3 w  
15 back-up.pptx."

16 So around the middle of  
17 November 2011, do you remember sending the  
18 2012 proposed generic budget to  
19 Mr. Olafsson?

20 A. I would have no memory of that  
21 whatsoever. It's reasonable, because that  
22 would be the timing that we would go  
23 through the presentation for 2012, but you  
24 know, remembering an email that I sent,

1 Q. All right. Great.

2 And then Mr. Olafsson, do you  
3 remember where his office was around this  
4 time?

5 A. He would have been in  
6 Parsippany as well. That's where I was.

7 Q. When you think about the  
8 Parsippany office building itself, about  
9 how many floors did it have?

10 A. The building had three floors,  
11 I believe.

12 Q. What floor were you on, do you  
13 remember?

14 A. I was on the second floor.  
15 May have been four floors.

16 Q. Okay. Was Mr. Olafsson on the  
17 same floor as you?

18 A. No, he was not.

19 Q. Do you remember what floor he  
20 was on?

21 A. I believe he was on the fourth  
22 floor, and I was on the second floor.

23 Q. As you think about the second  
24 floor around this time, of the building in

1 it's kind of hard to do.

2 Q. So in a nutshell or like as an  
3 overview, can you tell me, as you think of  
4 it, the schedule for the annual budget when  
5 you were at Watson and Actavis? And this  
6 is mid-November 2011 and you're sending a  
7 2012 proposed budget, how would that fit  
8 into the general generic budget, as you  
9 think about it, in the approval process?

10 MR. ERCOLE: Objection to form;  
11 compound.

12 THE WITNESS: We would start  
13 working on budgets probably at the end  
14 of the third quarter, beginning of the  
15 fourth quarter, which would have been  
16 September/October. And we would  
17 finalize them, usually the following  
18 year, in January or February.

19 BY MR. EGLER:

20 Q. And who -- let me start over.

21 What was your responsibility,  
22 as you think about your time at Watson, and  
23 especially around this time, the middle of  
24 November 2011, what was your responsibility

1 in the proposed budget process for the  
2 generics?

3 A. Review of expenses for the  
4 following year, review of headcount for the  
5 following year, review of the unit  
6 forecasts by the marketing team that they  
7 would do, the new product launch forecasts,  
8 and some of the assumptions that would be  
9 made about competition in the marketplace  
10 during the following year.

11 I think most of it, the key  
12 budget assumptions that you've got on  
13 Page -- whatever that is -- the next page,  
14 is kind of -- Bates number that ends in 68  
15 is pretty close to a lot of the things that  
16 we looked at.

17 Q. Then at some point, as you  
18 think about it with this proposed budget  
19 that's in Exhibit 25, would it be formally  
20 presented as part of a -- as a dog and pony  
21 show, for lack of a better term, or would  
22 there be a meeting about it or something  
23 else?

24 MR. ERCOLE: Objection to form.

1 THE WITNESS: You know, the  
2 generic side of the business and the  
3 amount of expenses that we had, from a  
4 budget presentation of the marketing  
5 and the expenses side, nobody ever  
6 really looked at our expenses, because  
7 we didn't spend a whole lot of money.

8 Most of the time was spent on  
9 what was our forecast of top-line  
10 sales, what was our new product launch  
11 assumptions, what was our competition  
12 assumptions, what was our price erosion  
13 in the marketplace for our overall book  
14 of business assumptions. That's where  
15 the majority of the time was spent on  
16 these presentations.

17 BY MR. EGLER:

18 Q. That data that you're talking  
19 about, the forecasting, is that contained  
20 in the document that's attached to Exhibit  
21 25?

22 A. This is more of the expenses.

23 Let me just see here for a  
24 second.

1 Yeah, this was an expense  
2 presentation. This wasn't even -- this  
3 wasn't even the product unit sales or  
4 marketing presentation, this was actually  
5 just our expense budget presentation.

6 Q. All right. Great. So let's  
7 move into this document, to the third page,  
8 and I think you had referred to this  
9 earlier, 2012 Key Budget Assumptions. It's  
10 Bates number 4586.

11 Do you see that there?

12 A. Yes.

13 Q. And as you think about the  
14 bullet points and the text that appears  
15 there, who would have been responsible for  
16 gathering all that text and putting it  
17 together in the proposed budget?

18 A. What do you mean, "gathering  
19 the text"?

20 Q. Well, let's start out with,  
21 like ultimately, what would your  
22 responsibility be, with regard to the text  
23 that appears here?

24 A. Well, I mean, I had each of

1 these departments that would tell me about  
2 their headcount, per se.

3 Q. Okay.

4 A. And they would provide  
5 their -- for the sales team, you had Allan  
6 Slavsky, he would be responsible for T&E.  
7 And then the rest of it would be any other  
8 expenses that are associated with these  
9 different programs.

10 Q. If you look at the last bullet  
11 on that third page of Exhibit 25, it says,  
12 "REM's" -- apostrophe S -- "programs funded  
13 through Medical Education."

14 Do you see that there?

15 A. Right.

16 Q. That term, "medical  
17 education," what does that mean to you in  
18 the context of your work back at Watson,  
19 understanding that this was about seven  
20 years ago?

21 A. There must have been a medical  
22 education department, functional area. And  
23 anything that would be related to REMS  
24 programs would have been funded or

1 evaluated and put into the budget through  
2 their budget versus the commercial budget.

3 Q. Do you remember that being a  
4 fact, as you sit here today, that the REMS  
5 programs at Watson were funded through the  
6 medical education group?

7 A. Well, just knowing me, the  
8 fact that I capitalized "Medical  
9 Education," to me means that there was  
10 probably some other functional area that I  
11 was calling Medical Education that was  
12 funding the -- whatever REMS programs were  
13 required for the organization.

14 Q. And as you think about that  
15 term, "REMS program," the first word in  
16 that sentence, what does that mean to you  
17 in the context of your work, say, at  
18 Watson?

19 A. Whatever Legal and Regulatory  
20 had required as part of our  
21 commercialization of products, if there  
22 were REMS programs associated with it, the  
23 costs of those programs were being captured  
24 in the medical education functional area.

1 president, sales and marketing; and then  
2 Sara Copp, the executive assistant. Do you  
3 see that there?

4 A. Yes.

5 Q. And then below the two of you,  
6 there's Allan Slavsky, VP, sales?

7 A. Yes.

8 Q. And then Napoleon Clark,  
9 executive director of marketing; and then  
10 Jeff Weiner, executive direct of marketing;  
11 Rick Rogerson, director of pricing; and  
12 Kathleen Karlson, executive director of  
13 bids and contracts; and then Mary Woods,  
14 executive director of customer service.

15 Do you see that there?

16 A. Yes.

17 Q. So with regard to the six  
18 people that I just mentioned, and  
19 understanding that I think most of the  
20 answer is below there, can we go through  
21 them and can you tell me generally what  
22 their roles were with regard to that --  
23 with regard to the generics sales and  
24 marketing group at Watson in -- around

1 Q. As you sit here today, do you  
2 remember ever having a conversation with  
3 someone about the allocation of costs for  
4 the REMS programs for the -- any generic  
5 drugs that Watson sold around this time,  
6 year-end 2011?

7 A. No, I don't recall.

8 Q. All right. So let's move on  
9 into this document. And the next -- not  
10 the next page, but the page after it, it's  
11 570.

12 Do you see that there?

13 A. Yes.

14 Q. And 570, it says "Current  
15 Organizational Structure."

16 And as you look at this  
17 generally, understanding, again, that this  
18 was about seven years ago, do you recognize  
19 this as the then-current organizational  
20 structure for the -- the top part of the  
21 sales and marketing group at Watson?

22 A. Yes.

23 Q. All right. So it has your  
24 name there, Andrew Boyer, senior vice

1 year-end 2011?

2 A. The responsibilities are  
3 pretty self-explanatory, if you want me to  
4 read them off the page.

5 Q. Well, let me ask you a couple  
6 of questions about them. And you  
7 understand that as well -- that's how I  
8 understand it -- that there's an arrow that  
9 points down that says "Responsibility," and  
10 each of those boxes corresponds to the  
11 person above it; is that right?

12 A. Yes.

13 Q. All right. So Allan Slavsky  
14 is listed as VP of sales, and then below  
15 there, it says [reading]: National Account  
16 Management and Generic Prescription, Brand  
17 Prescription, and Generic OTC.

18 Is that right?

19 A. Yes.

20 Q. As you think about that term  
21 "generic prescription" and "brand  
22 prescription," what do those two terms mean  
23 in the context of that box in this Exhibit  
24 27 [sic]?

1 A. So our customers, because  
 2 of -- the order management system was one,  
 3 combined order management system that came  
 4 into customer service, if a customer was  
 5 ordering brands or generics, they would  
 6 reach out to Allan Slavsky, but for the  
 7 sole purpose of just buying products.  
 8 There was no detailing -- it was strictly  
 9 the process of: Placing an order, the  
 10 order goes out.

11 If there was ever a financial  
 12 issue where they didn't get paid -- we  
 13 didn't get paid on time or, for instance,  
 14 there was a lost order, they had one point  
 15 of contact in our sales organization.

16 Q. Have you ever heard the term  
 17 "SAP system" in the context of your work at  
 18 Watson?

19 A. Yes.

20 Q. Would Mr. Slavsky be related  
 21 some way to the SAP system at Watson?

22 A. No.

23 Q. Okay. Now, over to the other  
 24 corner, Mary Woods.

1 Do you see that there?

2 A. Yes.

3 Q. And she -- below her, it says  
 4 [reading]: Order Processing, Customer  
 5 Service, Customer Master Database, Customer  
 6 Licensing, Suspicious Order Review -- and I  
 7 think that's -- is it International Account  
 8 Administration?

9 A. Yes.

10 Q. And then Product Support  
 11 Programs.

12 A. Yes.

13 Q. And in the middle there, or  
 14 close to the bottom, it says, Suspicious  
 15 Order Review.

16 A. Right.

17 Q. So are you familiar with the  
 18 suspicious order review system at Watson  
 19 around this time frame, year-end 2011?

20 A. No.

21 Q. As you think of it, what if  
 22 anything was your involvement with the --  
 23 well, let me start over.

24 So as we've been going in this

1 case, and I think in this document, this is  
 2 sometimes referred to as a "Suspicious  
 3 Order Monitoring Program"?

4 A. Yes.

5 Q. Have you ever heard that term?

6 A. Yes.

7 Q. All right. And is that the  
 8 same thing or a similar thing to what's  
 9 listed there as "Suspicious Order Review"  
 10 on that Page 570?

11 A. Yes, my -- my thought on that  
 12 would be: Orders came in from our  
 13 customers; if it kicked out of our SOMS  
 14 system, Mary would provide that information  
 15 to DEA compliance, and DEA compliance would  
 16 make a decision, based upon that order, as  
 17 to whether we release it or not.

18 Q. In your career, even before  
 19 Watson or after Watson, have you ever  
 20 worked firsthand with the management of a  
 21 suspicious order review or suspicious order  
 22 monitoring system?

23 A. No, I have not.

24 Q. All right. So as you go

1 forward into this document to Page 572, it  
 2 states, "Headcount Review Commercial  
 3 Relations."

4 Do you see that there?

5 A. Yes.

6 Q. As you look at the chart that  
 7 appears on this Page 572, what does that  
 8 appear to you to be?

9 A. This was the breakout of the  
 10 headcount in customer relations.

11 Q. So it -- underneath it, in  
 12 this chart, it states, "Functional Area"  
 13 and then it states, "2011 Actual," and,  
 14 "2012 Proposed."

15 Do you see that there?

16 A. Yes.

17 Q. And under "Data Admin," and  
 18 then in parentheses it says, "Licenses,  
 19 Customers, SOMS, Portal," and then closed  
 20 parentheses.

21 Do you see that?

22 A. Yes.

23 Q. Do you understand that -- part  
 24 of that to be the suspicious order

1 monitoring system at the company?  
 2 A. Right. So recognizing that it  
 3 was an electronic suspicious order  
 4 monitoring system, which is what my  
 5 understanding is, is that an order comes  
 6 in, it gets checked within the system based  
 7 upon the criteria that's been set by the  
 8 DEA compliance team, and if something were  
 9 to kick out, then these people would be  
 10 responsible, either through Mary, at this  
 11 time, or directly with DEA compliance, to  
 12 provide that information to them.

13 Q. All right. Do you -- and it  
 14 indicates here that, for the whole group  
 15 that's listed on that line, that Data Admin  
 16 Group that I just read in, there were three  
 17 people responsible for it in 2011, and  
 18 there were proposed to be three people in  
 19 2012.

20 Is that right?

21 A. Yes.

22 Q. All right. There's -- as you  
 23 sit here today, you don't read it to have  
 24 any breakdown as to between licenses,

1 customers, SOMS and portal; right?

2 A. No.

3 Q. This chart doesn't indicate  
 4 anything in any way?

5 A. No.

6 Q. So as you go further into this  
 7 document -- we're going to go a number of  
 8 pages in -- can you look at Page 4585? And  
 9 it looks like this (indicating). I'll just  
 10 hold it to up for you. 4585.

11 A. (Witness complies.)

12 Q. And Page 4585, at the top,  
 13 states, "customer Relations 2012 Proposed  
 14 Budget," and as you look at the data that's  
 15 on that Page 4585 in Exhibit 25, can you  
 16 tell me what that appears to you to be?

17 A. This is the expense categories  
 18 for the customer relations proposed budget  
 19 for 2012.

20 Q. Do you remember who would have  
 21 been responsible for preparing the data  
 22 that appears on this Page 4585?

23 A. Well, the data would have come  
 24 out of finance, with input from Mary Woods.

1 Q. And then, as you go into this  
 2 chart on Page 4585, there's 2011 and 2012  
 3 indications. And then on the left-hand  
 4 side, it says "Cost Center Name." There  
 5 are various things that are listed there.  
 6 One of them is the second one there. It  
 7 says "Allocation." And I'll just represent  
 8 to you that "Allocation" appears in every  
 9 chart in this exhibit.

10 As you think about that term  
 11 as it's used -- or as it was used in the  
 12 context in your work at Watson, do you have  
 13 an understanding of what that word  
 14 "allocation" would mean on this page?

15 A. I don't know exactly what the  
 16 allocation was for, but in the -- in the  
 17 financial systems for Watson at the time,  
 18 an allocation meant that you were being  
 19 charged by another area of the organization  
 20 for services being provided.

21 Q. Okay. And could that be  
 22 something even like janitorial services or  
 23 something?

24 A. You know, this -- I have no

1 idea what it was.

2 Q. All right. So as you go down  
 3 into this Page 4585 chart, there's another  
 4 line there that says "License, Dues &  
 5 Subscriptions."

6 Do you see that?

7 A. Yes.

8 Q. And then the -- under "2011,"  
 9 it states "Budget" and then "Forecast."  
 10 And then under "2012," it states "Budget."

11 When you -- as you read it in  
 12 the context of what your work was at  
 13 2011 -- in 2011 at Watson, what does that  
 14 term "budget" mean, especially in the  
 15 context of forecast?

16 A. This is a proposed budget for  
 17 2012.

18 Q. All right. So as you read it,  
 19 was there a budget in 2011 of -- would that  
 20 be \$31,000 for subscriptions and then a  
 21 proposed budget for 2012 of \$171,000?

22 A. Right. So the budget for '11  
 23 was 31-, the forecast that we ended up  
 24 spending was 89,000; and the budget for '12



1 was 171,000.  
 2 And these are licenses, dues  
 3 and subscriptions. These are the software  
 4 licenses, such as -- you mentioned SAP  
 5 users. So if you were a user of SAP, you  
 6 might have a software license, or you maybe  
 7 have the customer relationship management,  
 8 which was called sales force, I believe, at  
 9 the time. So it would have been those  
 10 software licenses for the organization.

11 Q. Do you know who would have put  
 12 together the 2012 budget for the -- well,  
 13 let me start over.

14 As you look at this  
 15 document -- I think you had said that Mary  
 16 Woods with the financial group would have  
 17 put together the data that appears on this  
 18 page.

19 With regard to the 2012  
 20 budget, who would have been primarily  
 21 responsible for budgeting the license, dues  
 22 and subscriptions that appear there on  
 23 Page 4585?

24 A. It probably would have been

1 input from finance that they got from IT as  
 2 to how many people we had utilizing systems  
 3 and what the cost of those licenses were  
 4 going to be. They probably provided that  
 5 to Mary, and Mary probably put it into the  
 6 budget.

7 Q. All right. All right. And  
 8 then can you turn to Page 4595. And  
 9 actually, as we're going, just -- so -- to  
 10 put it into context, turn to the page  
 11 before that, 4954. It states "2011 Key  
 12 Accomplishments."

13 Do you see that there?

14 A. Yes.

15 Q. Who would have been  
 16 responsible for the text that appears on  
 17 that page, 4594?

18 A. I'm going to guess the  
 19 majority of this was either Mary -- Mary  
 20 along with input from others.

21 Q. All right. And then going to  
 22 the next page, "2012 Objectives,"  
 23 Page 4595 --

24 A. Yes.

1 Q. -- as you see the text on this  
 2 page, who would have been responsible for  
 3 contributing the text of this page?

4 A. And I would say the same  
 5 person. Mary and/or others.

6 Q. All right. And on this page,  
 7 it states, "Systems" -- let me start over  
 8 -- "System Enhancements."

9 Do you see that there?

10 A. Yes.

11 Q. And it says, "Partner with  
 12 Contract Operations to develop streamlined  
 13 process for CARS membership, addition,  
 14 deletion, changes process." And then it  
 15 states, "Partner with DEA Affairs on  
 16 enhancements to current SOMS systems."

17 So there's a term there, "CARS  
 18 membership." Do you have an understanding  
 19 of what that meant in 2011 in your work at  
 20 Watson?

21 A. CARS was a software that  
 22 contained all of our master data for, I  
 23 believe, customers and so on. So I'm not  
 24 exactly sure what she was asking about

1 here. It had all of our contracts and  
 2 customers, if I'm not mistaken.

3 Q. All right. And then it's  
 4 written, "Partner with DEA Affairs on  
 5 enhancements to current SOMS systems."

6 And then SOMS system is the  
 7 system that we've been talking about  
 8 before, suspicious order management system;  
 9 is that right?

10 A. Yes.

11 Q. Do you remember there being an  
 12 objective for 2012, at the end of 2011,  
 13 to -- at Watson to partner with DEA affairs  
 14 to enhance the current SOMS system?

15 A. No. And I don't know what the  
 16 definition of "enhancement" is. I don't  
 17 know if that's faster communication or  
 18 faster order processing. I would have no  
 19 idea.

20 Q. Do you remember around this  
 21 time -- end of 2011, any discussions at  
 22 Watson about whether the SOMS system  
 23 required enhancement?

24 A. I do not.

1 MR. ERCOLE: Objection to form.  
 2 BY MR. EGLER:  
 3 Q. So go to the next page. It  
 4 says "2011 YTD" and then in parentheses  
 5 "August." And it states "Productivity  
 6 Statistics."  
 7 And -- well, as you look at  
 8 this document, do you remember who at  
 9 Watson would have been responsible for the  
 10 data that appears on this page?  
 11 A. Mary.  
 12 Q. And that's Mary Woods; is that  
 13 right?  
 14 A. Yes.  
 15 Q. All right. So -- and we're  
 16 talking about Page 4596 in Exhibit 25.  
 17 And about halfway down the  
 18 page, there's a -- there's a -- well, at  
 19 the top of the page, it states, "Customer  
 20 relations," and then a dash, "key  
 21 performance indicators."  
 22 Do you see that there?  
 23 A. Yes.  
 24 Q. And then there's a column that

1 states "2010," and then "Year To Date  
 2 August 2011," and then "2011 Year To Date  
 3 versus 2010 Year To Date percent of  
 4 change."  
 5 A. Yes.  
 6 Q. Okay. And then about -- I  
 7 guess about two-thirds of the way down the  
 8 page, it states "Master Data Statistics."  
 9 Do you see that there?  
 10 A. Yes.  
 11 Q. And it states "monthly average  
 12 per MDA."  
 13 Do you have an understanding  
 14 of what the term "MDA" means in the context  
 15 of this document?  
 16 A. No.  
 17 Q. Do you have an understanding  
 18 that it means an individual and not some  
 19 type of computer system or something?  
 20 MR. ERCOLE: Objection to form.  
 21 THE WITNESS: I don't know.  
 22 BY MR. EGLER:  
 23 Q. Do you remember having a  
 24 discussion about the rate of SOMS

1 validations that's listed there around the  
 2 end of 2011 at Watson with anyone?  
 3 A. I do not.  
 4 Q. Do you remember having a  
 5 discussion about the productivity of the  
 6 various people who were performing SOMS  
 7 validations at Watson around the year-end  
 8 of 2011?  
 9 A. I do not.  
 10 Q. Do you remember ever having a  
 11 discussion about the fact that the number  
 12 of validations performed by the various  
 13 staff people had increased by a third  
 14 between 2010 and year-to-date August 2010?  
 15 MR. ERCOLE: Objection to form.  
 16 THE WITNESS: I do not.  
 17 BY MR. EGLER:  
 18 Q. Do you remember ever having a  
 19 discussion with anyone about the need or  
 20 preference for a higher number of people  
 21 performing SOMS validations at Watson  
 22 around this time?  
 23 A. You know, the organization was  
 24 growing quickly. So what I would say is --

1 and this is a conversation I remember  
 2 having internally. I've had it for years  
 3 now -- as your volume increases, the  
 4 requirements of the organization to satisfy  
 5 the needs of the organization sometimes  
 6 increases on order management or others.  
 7 But I don't recall anything  
 8 specific to this, to be fair.  
 9 Q. Do you remember ever hiring  
 10 more than three people to examine the  
 11 pending orders in Watson's suspicious order  
 12 monitoring system?  
 13 A. To be --  
 14 MR. ERCOLE: Objection to form.  
 15 THE WITNESS: To be fair, they  
 16 didn't review those orders. Their  
 17 responsibility was to collect those  
 18 orders, is my understanding -- Mary  
 19 would know better than I would --  
 20 collect those orders, that was an  
 21 automated process coming out of the  
 22 system, and provide that to DEA  
 23 compliance.  
 24 Now, I don't know if they did

1 that manually. And the enhancement was  
2 to get it off of paper or get it more  
3 electronic. I don't know what those  
4 enhancements were. Mary is the one  
5 that you would need to ask.

6 But throwing people at a  
7 process doesn't necessarily make it  
8 work any more efficiently. So I don't  
9 know that people is the answer. As  
10 certain parts of the organization grew,  
11 sometimes it was software enhancements  
12 or, you know, other SAP enhancements  
13 that were required.

14 BY MR. EGLER:

15 Q. Just because I don't want it  
16 to be a trick question, I'll just represent  
17 to you, we took her deposition last week.

18 A. Okay.

19 Q. And that's why I'm kind of  
20 asking you whether you have any -- I don't  
21 want to characterize her testimony.

22 A. Yeah.

23 Q. I don't want to put words -- I  
24 don't want to describe what she said,

1 because everyone will think I'm describing  
2 it wrong, even if I'm thinking it's right.

3 But I just want to tell you --

4 I just want to ask you, as you sit here  
5 today, do you remember there ever being a  
6 discussion of whether it would be  
7 beneficial or whether it was required to  
8 bring more people into the Watson SOMS  
9 system to review the pending orders around  
10 this time, yearend 2011?

11 A. Seven or eight years ago, I  
12 don't remember. Somebody else could have a  
13 better memory than I do, for sure.

14 MR. EGLER: That's all I wanted  
15 to know.

16 Okay. I don't have any further  
17 questions.

18 THE VIDEOGRAPHER: Any other  
19 questions for anyone?

20 MR. ERCOLE: I have a couple of  
21 questions.

22 EXAMINATION

23 BY MR. ERCOLE:

24 Q. Good afternoon, Mr. Boyer.

1 A. Evening.

2 Q. Good evening. Thank you for  
3 that clarification.

4 Do you mind reiterating when  
5 you started at Watson Pharma?

6 A. 1998, September.

7 Q. And there's been a lot of  
8 discussion today of the difference between  
9 brand opioid -- excuse me -- brand  
10 medicines and generic medicines. When you  
11 worked at Watson Pharma, did you ever work  
12 with brand versions of opioid medicine?

13 A. No. I was responsible for  
14 generics.

15 Q. And when you worked at Watson  
16 Pharma, did you have knowledge of any  
17 specific promotional activities associated  
18 with brand opioids there?

19 A. No.

20 MR. EGLER: Object to form.

21 You can answer.

22 THE WITNESS: Okay. No. I was  
23 not involved in any of the strategy or  
24 the detailing of any of the brand

1 products, opioids or other, from the  
2 brand side of our business.

3 BY MR. ERCOLE:

4 Q. Would that apply to any  
5 marketing activities on the brand side of  
6 the business?

7 MR. EGLER: Object to form.  
8 You can answer.

9 THE WITNESS: That would apply  
10 to Watson, Actavis and Teva for any of  
11 the branded products for any of those  
12 companies.

13 BY MR. ERCOLE:

14 Q. And when you say "that  
15 applies," what do you mean by that?

16 A. Well, that means any of the  
17 features and benefits and detailing aids  
18 and items that a brand organization would  
19 traditionally do was done by the brand  
20 organization. The generic organization,  
21 including myself and my team, didn't  
22 participate in any of that promotional  
23 activity.

24 Q. And what you just described

1 applied when you were at Watson Pharma; is  
 2 that correct?  
 3 A. Yes.  
 4 MR. EGLER: Objection.  
 5 You can answer.  
 6 THE WITNESS: Yes.  
 7 BY MR. ERCOLE:  
 8 Q. And did it apply when you were  
 9 at Actavis Pharma?  
 10 MR. EGLER: Same objection.  
 11 You can answer.  
 12 THE WITNESS: When Watson went  
 13 to Actavis, yes, that's the case.  
 14 BY MR. ERCOLE:  
 15 Q. And did it apply when you  
 16 worked with Teva USA?  
 17 MR. EGLER: Same objection.  
 18 You can answer.  
 19 THE WITNESS: Yes.  
 20 BY MR. ERCOLE:  
 21 Q. With respect to the work that  
 22 you did at Watson Pharma as to generics, do  
 23 you recall any detailing of physicians with  
 24 respect to generic medicines?

1 Q. And when you were at Actavis  
 2 Pharma, do you have any knowledge of any  
 3 sponsorship of -- strike that.  
 4 I mentioned the word "CMEs,"  
 5 and I should not have assumed, necessarily,  
 6 that everyone knows what that is.  
 7 Do you have any knowledge of  
 8 what a CME is?  
 9 A. It's usually the continuing  
 10 medical education, that the brand  
 11 organization sometimes sponsored, to  
 12 educate physicians on a particular topic.  
 13 Q. With respect to your work at  
 14 Actavis Pharma, was there any sponsorship  
 15 of CMEs done on the generic side of the  
 16 business?  
 17 A. Not that I'm aware of.  
 18 Q. When you worked at Teva, was  
 19 there any sponsorship of CMEs done on the  
 20 generic side of the business when you were  
 21 there?  
 22 MR. CRAWFORD: Objection;  
 23 vague.  
 24 THE WITNESS: Not that I'm

1 A. Not that I recall.  
 2 Q. Do you recall any sponsorship  
 3 of CMEs regarding opioid medicines that  
 4 would have been done on the generic side of  
 5 Watson Pharma?  
 6 A. Continuing medical education?  
 7 Not that I'm aware of, no.  
 8 Q. Are you aware of any payments  
 9 made by the generic business of Watson  
 10 Pharma to third-party pain management  
 11 groups?  
 12 MR. EGLER: Object to form.  
 13 You can answer.  
 14 THE WITNESS: No.  
 15 BY MR. ERCOLE:  
 16 Q. How about, would what you just  
 17 testified about -- strike that.  
 18 When you worked at Actavis  
 19 Pharma, do you recall any detailing done by  
 20 the generic side of the business with  
 21 respect to opioid medications?  
 22 A. No.  
 23 MR. EGLER: Object to form.  
 24 BY MR. ERCOLE:

1 aware of.  
 2 BY MR. ERCOLE:  
 3 Q. Did you understand what I  
 4 meant by that question, sir?  
 5 A. Strictly generics -- I don't  
 6 recall any continuing medical education to  
 7 physicians done by any of the generic  
 8 entities that I was a part of during my  
 9 time there.  
 10 Q. And with respect to any of the  
 11 generic entities that you worked at, since  
 12 1998, do you have any payments to -- strike  
 13 that.  
 14 I referred earlier to  
 15 third-party pain management associations;  
 16 do you recall that?  
 17 A. Yes.  
 18 Q. Do you have an idea of what a  
 19 third-party pain management association is?  
 20 A. I know what an association is.  
 21 I don't know what the pain management  
 22 association is. But I'm not aware of any  
 23 payments being made to any of the so-called  
 24 therapeutic-specific associations that

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1 would be -- that were paid for by a generic  
 2 business.  
 3 That's not just opioids, but  
 4 that would be, you know, OB/GYNs, you know,  
 5 repro -- I'm not aware of any of those  
 6 types of associations where the generic  
 7 organization was paying for any kind of  
 8 participation in those --  
 9 Q. How about --  
 10 A. -- associations.  
 11 Q. And how about any third-party  
 12 pain management trade associations?  
 13 A. No, not that I'm aware of.  
 14 Q. To the best of your  
 15 recollection, was there any detailing of  
 16 physicians done, with respect to generic  
 17 medicines, at the entities that you worked  
 18 for since 1998?  
 19 A. Again, I was not aware, and I  
 20 think I testified already that I'm not  
 21 aware of any physician-based detailing of  
 22 features and benefits of our generic  
 23 business.  
 24 MR. ERCOLE: Thank you.

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1 CERTIFICATE OF SHORTHAND REPORTER  
 2  
 3 I, Gail Inghram Verbano,  
 4 Registered Diplomate Reporter, Certified  
 5 Realtime Reporter, Certified Shorthand  
 6 Reporter and Notary Public, the  
 7 officer before whom the foregoing  
 8 proceedings were taken, do hereby certify  
 9 that the foregoing transcript is a true and  
 10 correct record of the proceedings; that  
 11 said proceedings were taken by me  
 12 stenographically and thereafter reduced to  
 13 typewriting under my supervision; and that  
 14 I am neither counsel for, related to, nor  
 15 employed by any of the parties to this case  
 16 and have no interest, financial or  
 17 otherwise, in its outcome.  
 18  
 19  
 20  
 21 \_\_\_\_\_  
 22 Gail Inghram Verbano, CSR, RDR, CRR  
 23  
 24

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1 THE VIDEOGRAPHER: The time is  
 2 approximately 4:49 p m., and this  
 3 concludes the deposition.  
 4 (Videotaped deposition concluded at  
 5 4:49 p m.)  
 6  
 7  
 8 C E R T I F I C A T I O N  
 9  
 10  
 11 I hereby certify that I have  
 12 read the foregoing transcript of my  
 13 deposition testimony, and that my answers  
 14 to the questions propounded, with the  
 15 attached corrections or changes, if any,  
 16 are true and correct.  
 17  
 18 \_\_\_\_\_  
 19 ANDREW BOYER  
 20  
 21  
 22  
 23  
 24

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 2 E R R A T A  
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 4 PAGE LINE CHANGE  
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 24 REASON: \_\_\_\_\_



ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing pages, and that the same is  
a correct transcription of the answers  
given by me to the questions therein  
propounded, except for the corrections or  
changes in form or substance, if any,  
noted in the attached Errata Sheet.

\_\_\_\_\_  
ANDREW BOYER                      DATE

Subscribed and sworn  
to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public